Let this Book be Printed.

Oct. 20. 1693.

G. Treby.

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A GUIDE TO SURVEYORS OF THE High-Ways,

SHEWING

The Office and Duty of such Surveyors, with several Cases and Resolutions in Law relating to the same.

Collected and gathered

Out of publick Acts of Parliament now in force; and out of the *Year-Books*, and other Books of the Municipal Laws of this Kingdom.

With an Abridgment

Of the Statute of 22 *H.* 8. *Chap.* 5. for the repairing of Bridges, with Cases relating thereunto.

And likewise a Summary

Of the Statutes made for Paving, Cleansing, *&c.* Streets, Lanes, *&c.* in *London*, and other Towns and Places.

And an Abstract

Of Statutes made for the Repairs of High-ways and Bridges in particular Places.

Methodiz'd into short CHAPTERS for the ready finding out any Matter contain'd in the BOOK.

By *E.* Meriton, Gent.

Non nobis solum nati sumus; sed partem Parentes, partem Amici, partem Patria vindicant.

LONDON, Printed by *W. Rawlins* and *S. Roycroft*, Assigns of *Rich.* and *Edw. Atkins* Esquires; For *A.* and *J. Churchill* in *Pater-noster-Row*, and *Fr. Hildyard* Bookseller in *York*. 1694.

GUIDE

SURVEYORS

on the

High-Ways.

The Dedication.

To the much Honoured

Sir Marmaduke Wyvil, *Sir* William Strickland, *Sir* Brian Stapleton, *Sir* William Francke, and *Sir* Henry Marwood, *Sir* William Caley, *Sir* Mark Milbanck, *Sir* Christopher Wandesford, *Sir* Thomas Pennyman, *Sir* William Craytor, *Sir* Edward Blacket, *Sir* Charles Hotham *and Sir* William Robinson, *Baronets.*

And to the Honoured

Sir Barrington Bourcher, *Sir* William Hustler, *Sir* Henry Bellasis, *Sir* Rich. Osbaldaston, *Sir* William Bowes, *Sir* Jonathan Jennings, *and Sir* Ahstrupus Danby.

And to the Worshipful

Will. Palmes, Tho. York, Will. Thompson, Leon. Smelt, John Wastal, Rich. Pierce, Tho. Lascelles, Charles Tankred, Tho. Worsley, Edw. Thompson, John Lowther, Tho. Langley, Tho. Hesletine, John Hill *Jun.* John Gibson, Rich. Strains, Roger Talbot, John Bealby, John Smelt, John Hutton, Tho. Pullein, Rob. Waters, * Henry Metcalfe, * Tho. Gower, Rich. Darley, * James Mountain, Constable Bradshaw, * Tho. Wakefield, Tho. Strangeways, * Luke Robinson, Francis Wyvil, Anthony Wharton, Will. Pennyman, John Hopton *and* * Tho. Saunders *Esquires, Their Majesties Honoured and Worthy Justices of the Peace for the* North-Riding *of the County of* York.

Honoured and Worthy Sirs,

THE drowsie Heads of the slumbring Statutes made for the repairing

and amendment of High-ways being now rowſed up, which Laws for ſome time by-paſt, have ſeem'd to be as it were ſeiſed on with a Lethargy; and the High-ways (for lack of putting the Laws in Execution) were grown ſo foundrous (as the Law terms it) and ſo extreamly bad that the Owners and Occupiers of Lands in moſt Places have been neceſſitated to ſuffer their Fences to lie down, and to permit People to travel over their incloſed Grounds, to the private Damage of ſuch particular Perſons, and the publick Loſs and Damage of the whole Country, in the

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decay of Commerce and Trade, by reaſon of the impaſſableneſs of the High-ways. But ſince the evigilating and exuſcitating of the former Statutes, backt with the new Laws of their Majeſties KING William *and* QUEEN Mary; *the Country People in moſt Places have ſet themſelves to labour more effectually in the repairing and amending of their High-ways than they have uſually done formerly. But notwithſtanding their Activeneſs more than heretofore, yet they are very defective in the Meaſures taken about their Repairs in moſt Places, which is princi-*

pally occasioned through the ignorance of Surveyors of the High-ways, in the Duty and Authority of their Office; for although your Worships have given these Officers printed Directions, and do also acquaint them by Parol Instructions, yet many of them are so stupid and dull of Apprehension, that unless a thing be reiterated over and over, and over again, they either cannot or will not apprehend it: Therefore I conceived that some little methodical Pocket-Book of the Laws now in force about High-ways, might be (especially at this juncture of time) serviceable to the Country:

Country: So having set some vacant Hours apart for that purpose, and bestowed some little Pains therein, I have methodized the product of my Barren Genius into the Unpolished Form it now appears in, and do (pardon my Presumption) humbly dedicate it to your Worships, not at all conceiving or imagining that it can in the least better the Knowledge of any of your Worships in the Matters handled therein: But considering that a Prophet is not without Reward but in his own Country, and suspecting that this rude and indigested Pamphlet and its Author, may not only

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fall under the hard Cenſure
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ons, take Aſylum *under th*
Protection of your Worſhips
and do not only hope, bu
humbly crave you will no
deny Tutelage to him who is

Gentlemen,

Your Worſhips very

Humble Servan

G. Meriton

TO THE READER.

CAndid and Ingenuous Reader (for so I wish thee to be) their Majesties Justices of the Peace appearing now more vigorous and active than usual, in putting the Laws in Execution for the amending and repairing the Highways; and many that are called to the Exercise of the Office of Surveyors of the same, being ignorant in the extent of their Office

fice, and the Power and Authority thereof; and the Inhabitants in moſt Places (taking advantage of their Officers Deficiencies in the Knowledge of the Power of their Authority) are ſo remiſs in the diſcharge and performance of their Duties, about the amending and repairing their Highways, that the Work is performed very negligently, and the Intention of the Laws made for that purpoſe are (tho' not wholly) yet in a great meaſure fruſtrated: To the end therefore that the Surveyors may be the better inſtructed in the Power and Authority

thority of their Office, and the People may learn and know their Duties, I have collected this small Abstract of the Laws now in force relating to Highways, and divided the Book in twenty short Chapters under proper Heads, for the more easie and ready finding out of any thing comprised therein; and being but a small Pocket-Book, any one may have it ready at hand to resolve their Doubts and Quæries: And to the end, that it may be of general Use, and serviceable in all Places, and upon all Occasions, as well for the Repairs of Bridges

and

and other Repairs, as for the High-ways, I have therefore added an Abridgment of the Statute of 22 *H.*8. *ch.* 5. made for the amending and repairing decayed Bridges, and of the Statutes made for Paving, Repairing and Cleansing of the Streets, Lanes and Allies in the Cities of *London* and *Westminster*, and the Liberties thereof, and for several other Towns and Places, with divers other Matters relating to the said Places; and likewise the Statutes for repairing the *Northern* Post-Road in the County of *Hertford*, and taking Toll at

Wades Mill in the ſaid County, lately revived by an Act of Parliament made in the 4 and 5 Years of their Majeſties Reigns: And laſtly, An Abſtract of ſuch Statutes as have been made for the repairing and amending of ſome particular Wayes and Bridges in ſome certain Counties in *England* and *Wales*: If the *Book* proves ſerviceable I have my deſire, and to ſuch as carp and find fault, my requeſt is, that they will amend the Errors, and ſupply the Defects, and conſider that *eſt voluiſſe ſatis*: And tho' my Pains do not merit their

their good Opinion, y
I hope they will have n
occasion to be Angry
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no, it shall not discoura
or deter me to be to th
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G. Meriton

A

SUMMARY

OF THE

CONTENTS

Of the ſeveral

CHAPTERS

Contained in this

TREATISE.

CHAP. I.

OF High-ways in general; how many kinds of Ways, and how diſtinguiſhed, and of ſome Priviledges belonging to the High-ways. Page 1

CHAP. II.

Who are to be Surveyors of the High-ways, and how and by whom to be choſen, and when; and what For-

feiture

feiture for refusing to take the Of upon them, and how to be levied a disposed of.

CHAP. III.

What things are first to be done the Surveyors of High-ways, af they have taken the Office up them, and within what time, a under what penalty, and how to levied and disposed of.

CHAP. IV.

Who and what Persons are to appe and labour upon the publick or co mon Days appointed by the Su veyors for the amendment and r pair of High-ways, and where th are to appear, and after what ma ner, and how long they are to wor and under what Penalties, an how to be levied and disposed with some Cases and Resolutions re lating to these Matters. 2

CHAP. V.

How Trees, Hedges and Bushes grow ing in or adjoyning to High-way

are to be ordered, and to whom the Freehold of High-ways belongs, and who shall have the Trees growing therein, when they are cut down; and about scowring Dikes and Gutters, and making of Trenches, and what Forfeitures for defaults and neglects, and how to be levied and disposed of, and what breadth High-ways and Causeys in them are to be. 42

CHAP. VI.

What Stones and Rubbish the Supervisors may take for the amendment of the Highways, and in what places, and how they may dig for Sand, Gravel, &c. And when they are necessitated to buy such Materials at their Charges, how they are to be reimbursed. 52

CHAP. VII.

How, when, where, and before whom, Presentments upon the Statutes for High-ways are to be made, and to whom, and within what time, and before whom account is to be made by Officers for Monies received by

virtue of any of the said Statutes.

CHAP. VIII.

How Lands given for the maintenance of Cawseys, High-ways, Pavements and Bridges are to be let, and how Assessments are to be made and gathered for the repairing of High-ways; and of such as make resistance and oppose such persons as are imployed in the Execution of the Statutes made for amendment of High-ways, and concerning Suits that shall be brought about the same. 64

CHAP. IX.

The Surveyors Duty about travelling Waggons, Wains, Carts or Carriages, with an account when and by whom, and where the Prices for Goods carried by Waggoners, and other Carriers are to be assessed and rated, and the Penalties for taking above such Rates. 69

CHAP. X.

Of Nusances in publick and private Ways, how removeable and punish-

punishable, and where an Action upon the Case lies for a Nusance, and where not. 73

CHAP. XI.

An Abridgement of the Statute of 22 H. 8. chap. 5. *about the Repair of Bridges, with some Expositions and Cases in Law relating thereunto.* 2

CHAP. XII.

An Abridgment of such Statutes as have been made for the paving and cleansing the Streets and Lanes in the Cities of London *and* West-minster, *and Suburbs and Liberties thereof; and Out-Parishes in the County of* Middlesex, *and the Borough of* Southwark. 93

CHAP. XIII.

An Abridgment of so much of the Statutes of 15 Car. 2. chap. 1. *and* 16 *and* 17 Car. 2. chap. 10. *as concerns the repairing the ancient High-way, and Post-Road from* London *to* York, *and so into* Scotland, *as lies in the several Parishe Towns;*

feiture for refusing to take the Of upon them, and how to be levied a disposed of.

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CHAP. VII.

How, when, where, and before whom, Presentments upon the Statutes for High-ways are to be made, and to whom, and within what time, and before whom account is to be made by Officers for Monies received by

virtue of any of the said Statutes. 57

CHAP. VIII.

How Lands given for the maintenance of Cawseys, High-ways, Pavements and Bridges are to be let, and how Assessments are to be made and gathered for the repairing of High-ways; and of such as make resistance and oppose such persons as are imployed in the Execution of the Statutes made for amendment of High-ways, and concerning Suits that shall be brought about the same. 64

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The Surveyors Duty about travelling Waggons, Wains, Carts or Carriages, with an account when and by whom, and where the Prices for Goods carried by Waggoners, and other Carriers are to be assessed and rated, and the Penalties for taking above such Rates. 69

CHAP. X.

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An Abridgement of the Statute of 22 H. 8. chap. 5. about the Repair of Bridges, with some Expositions and Cases in Law relating thereunto. 2

CHAP. XII.

An Abridgment of such Statutes as have been made for the paving and cleansing the Streets and Lanes in the Cities of London and West-minster, and Suburbs and Liberties thereof; and Out-Parishes in the County of Middlesex, and the Borough of Southwark. 93

CHAP. XIII.

An Abridgment of so much of the Statutes of 15 Car. 2. chap. 1. and 16 and 17 Car. 2. chap. 10. as concerns the repairing the ancient High-way, and Post-Road from London to York, and so into Scotland, as lies in the several Parishes Towns,

The Contents

Towns, Vills and Hamlets in the County of Hertford, and now reviv'd by the Statute of the fourth and fifth Years of their present Majesties Reigns. 121

CHAP. XIV.

How new Ways may be set out in the Welds of Kent and Sussex, and how, and by whom Kings Ferry in the Isle of Sheppy, and the Ways belonging to the same, with the Sea Banks and Sea Works on the Coasts of Norfolk are to be repaired; and what the Owners and Occupiers of Iron Works are to perform or pay towards the repairs of the High-ways in Sussex, Surrey and Kent. 130

CHAP. XV.

The Heads of the Statutes made for paving, repairing and maintaining the Streets and Lanes in Cambridge, Ipswich and Chichester. 145

CHAP.

CHAP. XVI.

An Abſtract of the Statutes made for repairing Huntington-Lane *near the City of* Cheſter, *the common High-way called the* Cawſey *lying in the Counties of* Dorſet *and* Somerſet, *between the Towns of* Shaftsbury *and* Sherborne, *and for amending the High-ways within five Miles of the City of* Oxford. 151

CHAP. XVII.

The Heads of the two Statutes made in the 18 *and* 27 *Years of Queen* Elizabeth *for the maintenance and reparation of* Rocheſter-Bridge *in the County of* Kent. 156

CHAP. XVIII.

An Account of the Statutes of the 39 *and* 43 Eliz. *made for repairing and maintaining the Bridge at* Wilton *upon* Wye, *in the County of* Hereford, *and* Edon *and* Preſtberk *Bridges in* Cumberland. 160

CHAP.

CHAP. XIX.

How Chepſtow-Bridge *ſtanding between the Counties of* Glouceſter *and* Monmouth, *is to be repaired and maintained.* 16

CHAP. XX.

Cardiff, Newport *and* Carlion-Bridge *in* Wales, *how to be repaired and maintained.* 16

A GUIDE FOR SURVEYORS OF THE High-Ways.

CHAP. I.

Of High-ways in general; how many kinds of Ways; and how distinguished, and of some Priviledges belonging to the High-ways.

AN High-way in our Law-Language is called *Chimin*, being a French word for Way, whereof cometh *Chiminage* or *Chimmage*, *Chiminagium* or *Chimmagium*, which signifies a Toll due by Custom, for having a Way or Passage through a Forest, to the disquiet of the Wild Beasts of the Forest. And no Forester, but such as hold in Fee- Co. Lit. f. 56. Terms of the Law, and Blount's Law Dictionary, verb Chimin and Chiminage, Crom. Juriſd. f. 189.

9 H. 3. Charta Foreſta cap. 14. Foreſt 14. Rast.

Statutes at large printed 1587. f. 5. Wingates Forest, Chaser, &c. §. 14. Keb. Stat. printed 1684. f. 7. Rast. Forest 14.

Fee-Farm of the King are to take any *Chiminage* or *Chimmage*; and such who do hold in Fee-Farm, are to take it only in such places where it hath been accustomed to be paid, *viz.* Two pence half yearly for a Cart, and for an Horse that beareth Loads every half year an half peny, and this must be but of such that come as Merchants by licence to buy Bushes, Timber, Bark or Coal, and sell the same again at pleasure; but for no other Carriage by Cart shall Chimmage be taken; nor of those that bear upon their Backs Brushment, Bark or Coal to sell though they get their Livings by it except they take it in the Kings Demesn Woods.

Co. Lit. 56. Dalt. J.P. printed 1677. chap. 50. f. 98. vid. Fleta lib. 4. cap. 1. Bract. lib. 4. f. 232. & Kitchin Court Leet, &c. printed 1585. p. 49. b.

An High-way in Latin is called *via a vehendo*, from carrying, in respect of the Carriages passing to and fro therein, and is defined to be *transitus a loco ad locum*, the passage from one place to another. And although it be so in the Terms of the Law, and by Mr. *Blount*, that there are but two kinds of Ways, yet my Lord *Cook* and others tell us that there are three kinds of Ways; As first a Foot-way, called *Iter*, *Quod est jus eundi, vel ambulandi hominis*, where a Man hath right to go

and come, and was the first or prime Way; The second kind is both a Foot-way and a Horse-way, which is called *Actus ab agendo*, and vulgarly is called Pack and Prime-way, because it is both a Foot-way which was the first or prime-way, and a Pack or Drift-way also, sometimes called a Bridle-way; and then the third kind is *Via* or *Aditus*, which contains both the other two, and also a Cart-way or Carriage-way, for this is *jus eundi, vehendi, & vehiculum & jumentum ducendi*; A publick way for Cart and Carriage, and driving Cattel, *&c.* and this Way is two-fold, *viz. Regia Via*, the Kings High-way free for all Men, and *Communis Strata*, belonging to a City or Town, or between Neighbours and Neighbours.

And *Minshaw* also out of *Ulpian* makes three kinds of Ways, *Publicam, Privatam, & Vicinalem*, a Publick-way, a Private-way and a way of Vicinage or Neighbour-hood, *via publica, quam Latini Regiam appellant*, a Publick-way is that called the Kings High-way, *via vicinalis, quæ in vicis est, vel quæ in vicos ducit*, these Ways of Vicinage, are Ways between Street and Street, Neighbour and Neighbour;

Dalt. J.P. printed 1677. chap. 50. f. 98.

bour, Houſe and Houſe in Cities and Towns, *via privata eſt quam agrariam dicunt*; A private way is reckoned to be a Field-way, and theſe ways are of two ſorts, *vel ea quæ ad agros ducit, per quam omnibus commeare licet*, either that way which leads into the Fields lawful for all Men to paſs and repaſs, go and come in, *vel ea quæ eſt in Agris, cui impoſita eſt ſervitus, ita ut ad Agrum alterius ducat*, or ſuch a Way as is ſet out in the Fields to lead to another Mans ground.

Terms of the Law, and Blounts New Dictionary *Chemin.*

And theſe private ways alſo which one or more Men have, either by Preſcription or Charter, through another Mans Grounds, are likewiſe divided into a way in groſs and a way appendant. *Chimin* in groſs is that way which a Man holds principally and ſolely in himſelf; as if a Man hires a Cloſe or Paſture, and hath a Covenant for ingreſs and regreſs to and from the ſaid Cloſe through the Ground of ſome other Man, through which otherwiſe he might not paſs; this is a way in groſs. Or a way in groſs may be that which the Civilians call perſonal; as when one Covenants for a way through the Ground of another Man for him and his Heirs. And *Chimin* appendant,

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way appendant, is that way which a Man hath adjoyned to ſome other things as appertaining and belonging thereunto, and may be that way which the Civilians call Real; as where a Man purchaſeth a way through the Ground of another Man for ſuch as do or ſhall dwell in this or that Houſe, or that are the Owners of ſuch a Mannor for ever, *&c.* And this is a way appendant to the ſaid Houſe or Mannor.

And it was ſaid by *Fairfax* (a Juſtice of the Kings Bench) that if a Man have *Chimin* appendant, a way appendant to his Mannor or Houſe, that this way cannot be made in groſs by Grant, becauſe none can have the benefit of ſuch way, but he that hath the Mannor or Houſe to which the way is appendant; but *via Regia* the Kings High-way may be made in groſs, becauſe the Country may have the benefit of it, notwithſtanding that they have not the Land.

5 H. 7. f. 7. b pl. 15. Kitchin Court Leet, &c. printed 1585. p. 50. b. Bro. Chimin. 14.

Tr. 10 Car. 1. B. R. per Curiam upon a Tryal at Bar upon an Information againſt Sir Edward Duncombe, Cro. Car. f. 366. pl. 3. Rolls Caſes 1 part, f. 390.

If there be a Common High-way for all the Kings Subjects, which lies in an open Field unincloſed, and it hath been uſed time out of Memory, that when the ſaid way hath been foundrous and bad, that then the People have uſed to go by Outlets upon the

A. 10. 15. Dalt. J. P. printed 1677 ch. 50. f. 98. Bond Guide for J. P. p. 110.

Lands adjoyning; in this Case these Outlets are parcel of the way, for the Kings Subjects ought to have a good Passage, and the good Passage is the Way, and not only the beaten Track; for if the Lands adjoyning were sown with Corn, the Kings Subjects (the way being foundrous) may go over the Corn.

Cro. Car. ubi supra Rolls Case, 1 par. f. 390. B. 30. 35. 40. 45. Dalt. J.P. ubi supra. Comple. Justice printed 1681. p. 160.

Where a Common High-way hath time without memory been used to be repaired by the Country. If afterwards *J. S.* who hath Land not inclosed next adjoyning to the said High-way on both sides thereof, and he for his own advantage doth inclose his Land on both sides of the way, with an Hedge and Ditch, he by this hath taken upon him to repair the said way for the future, and hath freed the Country from the Reparation thereof; so that at all times afterwards when need requires he must repair it, and it is not sufficient for him to make it as good as it was at the time of the Inclosure, but he ought to make it a perfect good way, without having any respect to the way, as it was at the time of the Inclosure; for when the way laid in the open Fields not inclosed, the Kings Subjects used when the way was bad and

and foundrous, to go for their better paſſage upon the Fields adjoyning to the way, out of the common Track of the way, which liberty is taken away by the Incloſure.

And in Sir *Nicholas Staughtons* Caſe, it was ſaid by the Chief Juſtice, and not denied, That if one incloſe Land but on one ſide of the High-way which was anciently incloſed on the other ſide, he which makes ſuch new Incloſure, muſt repair the whole way; but if there were no ancient Incloſure on the other ſide, he ſhall repair but half of the High-way. And by the ſame reaſon there, if there be a common High-way incloſed, and one Man hath the Land adjoyning on one ſide of the way, and another Man hath the Land adjoyning on the other ſide of the way, and each of them incloſeth his own Land adjoyning to the ſaid way, then in ſuch Caſe they are to repair the way between them. Tr. 22 Car. 2. B. R. Siderf. Rep. 1 p. f. 464. pl. 8.

There were three parcels of Land, and the neceſſary private way was out of the firſt parcel to the ſecond, and out of the firſt and ſecond parcels to the third parcel, and *J. S.* purchaſeth all the three parcels, and afterwards Aliens the two firſt parcels to *J. N.* M. 1658. B. R. in Parker and Welſteads Caſe, Siderfins Rep. 2 p. f. 39. & 111, 112. vide Tr. 5 Jac. 1. B. R. Clark and Coggs Caſe, Cro. Jac. f. 170. pl. 10.

And whether this unity of poſſeſſion in *J. S.* did not extinguiſh the way, came in queſtion; and it was ſaid that if it were a way of neceſſity, and no other way to the third parcel, which *J. S.* ſtill kept, that then the way doth ſtill remain, for it is not only a private Inconvenience to *J. S.* but alſo a prejudice to the Common Wealth, for Land to lie freſh and unoccupied: And ſo it was adjudged by the Court.

Horn and Taylors Caſe, Noys Rep. f. 128. Sheppards Actions upon the Caſe, ch. 5. ſect. 4. cap. 8.

If *T.* have an ancient way over the Cloſe of *H.* and *H.* ſowes the Cloſe and Way, and leaves a Way in another part of the Cloſe, yet *T.* may juſtifie to go where the ancient Way is, and is not bound to go in the unplow'd Way.

Vide Mich. 8. Car. 1. B. R. The King againſt Ward and Lyme, Cro. Car. f. 266, 267. pl. 16.

And ſo an ancient common Highway, which hath been time out of memory, cannot be incloſed or ſtopped, and another way laid out without a Writ of *Ad quod dampnum* firſt ſued out, to enquire whether or no it be to the damage of the Kings Liege Subjects, and to whom, *&c.* and an Inquiſition returned that it is not to the damage of any of the Kings Liege Subjects, for without this or the Kings Licence, though the new way be as bene-

beneficial and commodious for the People as the old way, yet the Party may be presented and indicted that turns such an old way, and any that is so minded may abate the Nusance and break it down, and go the old way; And in this Case without a Writ of *Ad quod dampnum* the Party may stop the new way again at his pleasure, and by this laying out a new way, the Subjects have not such Interest therein so as they may justifie their going there, nor is it any such way that the Inhabitants are bound to watch there, nor are they liable to repair and maintain it. Jones Rep. f. 222.

The Owner of Land who is not the Occupier is not chargeable to the Repairs of Common High-ways, but only the Occupier, so that the charge is to be upon the Tenant and not upon the Land-lord, unless it be covenanted between them to the contrary. And this was so agreed by the Court of Kings Bench upon a motion to have a Prohibition to the Marches of *Wales* upon an Information there preferred in such a Case against the Owner. Hill. 2. Car. 1. B. R. Rolls 1 part. ca. f. 390. B. 50.

It is provided by the Statute of *Marlbridge* that no distress shall be taken in the Kings High-way, nor in the Common Marlbr. chap. 15. F. N. B. 90. A. Reg. f. 97. b. 183. b. Co. 2 Inst 131. Stat. at large printed 1684. f. 14. Keb.

Statutes printed 1684. f. 17. Except the King and his Officers having special authority, Wingates Distresses sect. 11. 17 E. 3. 43. Rolls ca 1. part f. 671. Vide Mich 41 El. B. R. in Smith and Shepheards Case, Cro. El. f. 710. pl. 34. 17 E. 3. 1. 43 E. 3. 40. Co. Rep. 8. lib. f. 60. b. 11 R. 2. Avowry 87. Co. 2. Inst. f. 131.

mon Street; but by the Common Law one might have taken a Distress in the Kings High-way, till it was prohibited by this Statute, and this is intended only of Distresses for Rents and Services, and not for those things where of no Distress can be, but in the High way, as for Toll, &c. And in Case Distress be taken for Rents and Services in the High-way, yet the Party distrained cannot plead it in Bar, but must bring his Action upon the Statute.

Co. Rep. 9. lib. f. 22 a. 44 E. 3. 20. b. 6 R. 2. Restous, 11 H. 7. f. 4 a. pl. 18. 21 H. 7. f. 49. a. pl. 58. Terms of the Law verb. Distress, Co. Litt. f. 161. a. Co. 2. Inst. f. 131. 2 E. 2. Avowry 182.

And if the Lord comes to distrain and seeth the Cattel upon his Tenancy and the Tenant or any other on purpose to prevent the Distress, drives the Cattel out of the Ground into other Lands not holden of the Lord, or into the High-way, in this Case he may freshly follow and distrain them there and is not punishable by this Statute but in both these Cases the Lord when he comes to distrain must have the view of the Cattel within his Fee, for if they be driven out before he have the view of them, or that the Cattel after the view go out of themselves, or are chased and driven out for some other cause and not to prevent the Distress then the Lord may not distrain them

another Mans Land, or in the High-way for Rents and Services.

The Country by the Statute of *Winchester* are to take care so to secure their High-ways, that people may Travel with safety; for if one be robbed, the Hundred where he is robbed, is to make satisfaction, and if it be done in the Division of two Hundreds both Hundreds shall be answerable, but then the Party robbed as soon as he can is to give notice of the said Robbery, to some of the Inhabitants of some Town, Village or Hamlet next adjoyning to the place where the Robbery was committed, and must also within twenty days before he bring his Action make Oath before some Justice of the Peace of the County where the Robbery was committed, living in or near the same Hundred, whether he knew the Party that robbed him, or any of them, and if he do, then before he commence his Action he must enter into sufficient Bond by Recognizance before the said Justice, effectually to prosecute the same Person or Persons so known, by Indictment, or otherwise according to Law; and the Party robbed is to commence his Action within a year after the Robbery committed

or

13 E. 1. Stat. 2. ch. 2. 28 E. 3. ch. 11. 27 El. ch. 13. Co. Rep. 7. f. lib. 1. 7. 2. Wingate Abridg. Stat. Tit. Robberies sect. 5. Stat. at large printed 1684. f. 52.

Dalt. J. P. printed 1677. ch. 84. f. 215 Bonds Guide for J. P. p. 199. Wing. Robberies sect. 17. Statutes at large printed 1587. f. 710. Keb. Stat. printed 1683. f. 885. sect. 11.

A Justice of the Peace in any of the three Ridings in *York-shire*, is within the meaning of this Statute, which names only a Justice of the County, and so it was resolved, Hill. 1657. B. S. in Halls Case, Siders. Rep. 3 p. last printed f. 44, 45.

Hill. 14 Jac. 1. Norris Case, Hob. Rep. f. 139, 140. Keb. f. 885. sect. 9.

or else the Hundred shall not be charged therewith, nor shall they be charged, if the Robbers or any of them be taken, but then such taking and apprehending of the Robbers or any of them must be before the Verdict or Judgment against the Hundred.

Mich. 12 Car. 2. B. R. in Baskerville's Case, Alder. Rep. 1 part f. 11.

Robbery by some is said to be from *Roberia* or *Robaria*, from the French *Robbe*, *id est*, *vestis* a Robe; and is when there is a felonious taking away of a Mans Goods from his person or presence against his will, putting him in fear, and of purpose to steal the same: and it is called Robbery because the Goods are taken as it were *de la Robe*, from the Robe, that is, from the Person; and although the thing taken be but to the value of a Peny, yet it is Felony, for which the Offender shall suffer death.

Co. Lit. fol. 288. Terms of the Law and Blount's Law Dictionary verb. Robbery. 22 Ass. pl. 55. Kitchin Court Leet, &c. printed 1585. p. 36. b. Crom. 33 b. 11. 1 Lambert Eirenarcha ch. 7. lib. 2. Stam. 17. Bond ubi supra, p. 198.

Note, If a Man be robb'd in an House, the Country is not chargeable nor liable to answer such Robbery, for it ought to be committed openly that the Country may take notice of it; nor is the Country liable to answer for a Robbery committed in the Night, but tho' the Robbery be before Sun-rise or after Sun-set, yet if it be day-light the Hundred shall be charged.

Tr. 27 El. C.B. in Sendall's Case, Co. Rep. 7. lib. f. 6. 2. Cr. 2 Inst. f. 169. Cro El. f. 753. pl. 23. Mo. Rep. f. 62. pl. 148. Cro. Jac. f. 467. Tr. 29 El. C.B. in Milburn's Case, Co. Rep. 7. lib. f. 6. b. Savil's Rep. f. 83. pl. 163. Tr. 28 Eliz. C.B. Ashpole's Case, Co. Rep. 7. lib. f. 6. b. Mich. 21 Jac. B.R. Mayo's Case, Cro. Jac. f. 106. pl. 45.

And

And where a Robbery is begun in one Hundred and committed in another, yet it is a Robbery in the first Hundred where it was begun; as if a Carriers Horse and Pack be taken by Robbers in one Hundred, and led into another Hundred and there his Pack is robb'd, this is a Robbery in the first Hundred where the Horse was taken; but if the Carrier lead the Horse himself, then it is a Robbery in the second Hundred, because the Carrier was always in possession till then; and if Robbers take a Man in one Hundred and carry him into another Hundred and there rob him, this hath been held to be no Robbery in the first Hundred, but in the second, because the Party is always in possession till then. And if Robbers drive or force a Waggoner to drive his Waggon out of the way in the day-time, but rob him not till night, yet this is a Robbery in the day, for the first seisure is the Robbery.

Goldsb. Rep. p. 18. pl. 11.

Tr. 17 Car. 2 B. R. so held, Siderfins Rep. 1 p. f. 263.

Tr. 31 Eliz. C. B. Greens Case, Cro. Eliz. f. 142. pl. 8. Goldsb. Rep. p. 24. pl. 3. Latch. Rep. f. 127. Tr. 2 Car. 1. C. B. Reymonds Case, Cro. Car. f. 37. pl. 2. Siderfins Rep. 1 p. but last printed f. 45. If the Servant or Carrier will not swear, the Master or Owner is without remedy, Dalt. J. P. f. 215.

If a Servant be robb'd of his Masters Mony, or a Carrier be robb'd of another Mans Goods, he that is robb'd must make Oath, and not the Master or Owner; and the Action may be brought either in the Master or Servants Name, and so either in the Owner

Owner of the Goods or Cam
Name.

Vide Mich. 1649. B.S. Wrights Case Styles Rep. f. 156. ca. 3. & Hill. 1651. B.S. Crosthwaites Case, Styles Rep. f. 378. ca. 3. Vide Lamberts Eirenarcha, lib. 2. cap. 7.

If a Servant be robb'd of his M
sters Goods in the presence or sight
his Master, this shall be taken for
robbing of the Master; and so if
Man be riding Post, and the Post-b
hath his Portmantle behind him, whi
is robb'd, and the Posters Mony tak
out of it in his presence, this shall
taken for a robbing of the Party th
rides Post, and not of the Post-bo
for these Robberies being committe
in the Owners presence are said to
done to their Persons; and if one c
away his Purse or Goods to save the
from a Robbery, and the Robber ta
them up and carry them away, th
is a Robbery done to the Owners Pe
son.

Hill. 26 Eliz. B.R. Pudsey's Case, Anderson Rep. 1 p. f. 116. pl. 161. vid. Lamberts Eirenarcha, lib. 2. ch. 7. Bonds Guide for J. P. p. 199. and Compleat J. printed 1681. p. 330.

If two High-way Men meet tw
Persons travelling in the High-way, an
they endeavour to rob the Travellors
and draw their Swords and offer t
wound them, upon which the Tr
vellors ride one of them one way an
the other another way, and one of th
Robbers follows one of them, and
his Companion the other, and in thi
pursuit one of the Travellors is robbe
by one of the High-way Men, out o
the

e ſight and hearing of his Compa-
on, yet in this Caſe they are both of
em principal Robbers, he that nei-
er heard nor ſaw the Robbery, as well
s he that committed it. And ſo it
as adjudged in the Caſe of one *Pud-*
y, who was arraigned in the Kings
ench as a Principal, and was found
uilty and hanged, though the Rob-
ery was done by his Companion out
f his ſight and hearing.

Formerly if a Man were travelling upon a *Sunday*, and were robbed though it were in time of Divine Ser-ice, upon the *Sunday* in the Fore-oon, yet the Country were liable, and were bound to anſwer for the Robbery, s it was adjudged in one *Waits* Caſe; ut now by the Statute of the 29th of King *Char.* II. they ſhall not make ſa-isfaction for any Robbery committed upon Perſons travelling upon *Sunday*, ut it is at the peril and loſs of the Parties travelling, if they be robb'd upon a *Sunday*.

Mich. 16 Jac. 1. B R. Waits Caſe, Godbolts Rep. p. 280. pl. 397. Cro. Jac. f. 466. pl. 2.

St. 29 Car. 2. ch. 7. Keb. Stat. f. 1485. ſect. 5. But the Country upon notice of a Robbery committed upon a Sunday are to make Hue and Cry, as if it had been done on another day, or elſe to forfeit as much to the King as might have been recovered by the Party robbed.

Now having opened the Ways, and cleared the Paſſage, I ſhall proceed to introduce the Officers.

CHAP.

CHAP. II.

Who are to be Surveyors of the High-ways, and how and by whom to be chosen, and when; and what Forfeiture for refusing to take the Office upon them, and how to be levied and disposed of.

Rosinus Rom. Antiq. lib. 7. p. 300. Dalt. J. P. ch. 50. f. 97.

I Find no mention made in our Law of the Surveyors of High-ways till about one hundred thirty eight years ago, *Anno* 2 and 3 *P.* and *M.* But *Rosinus* tells us, that the Senate of *Rome*, in ancient time, took great care in making and amending of the High Ways, as well within as without the City: *Maxima* (saith he) *priscis temporibus Senatus diligentia fuit faciendi sarciendisque viis tam intra quam extra Urbem.* And the care of these Ways was first committed to the two Censors, who were called *a Censendo*, because they assessed and valued every Mans Estate, and took notice how every Man lived and carried himself, and were reputed of the best Rank of Magistrates in *Rome*. But these Magistrates being too much busied with their other Imployments the

Fenest. de Magistr. Rom. cap. 17. Godwins Rom. Antiq. lib. 3. sect. 2. ch. 5.

they choſe others whom they called *quatuor viros viarum curandarum*; the four Overſeers of the High-ways; but the number of their ways increaſing, particular Ways had particular Surveyors appointed, who were called *curatores viarum*, which *Cæſar Auguſtus* made an Ordinary Office; to which Office our Surveyors of the High-ways now anſwer, ſo that this Office hath been of great Antiquity.

By the Statute of the 2 and 3 of King *Philip* and Queen *Mary*, it is enacted, That the Conſtables and Church-wardens of every Pariſh within this Realm, ſhall yearly upon the *Tueſday* or *Wedneſday* in *Eaſter* Week, call together a number of the Pariſhioners, and then elect and chuſe two honeſt Perſons of the Pariſh, to be Surveyors and Orderers for one Year of the Works for amendment of the High-ways in their Pariſh leading to any Market-Town, the which Perſons ſhall have authority by virtue of the ſaid Office, to order and direct the Perſons and Carriages that ſhall be appointed for thoſe Works by their diſcretions; and the ſaid Perſons ſo named ſhall take upon them the execution of their ſaid Offices, upon pain every of

2 & 3 P. & M. ch. 8 St at large printed 1587. f. 289. Poulton Abr. Penal St. High-ways 1. Keb. St. printed 1684. f. 740. ſect. 2. Wingate ſect. 5. High-ways.

But now by the 8t of the 3 & 4 of K. Will. and Q. Mar. the penalty is 5 l.

them making default to forfeit twenty shillings.

22 Car. 2. ch. 12. Keb. ibid. f. 1396. sect. 12. Wingate sect. 39. High. ways

But the Statute of the 22d. of King *Charles* the Second appoints, that the Surveyors and Orderers of the Work for the amendment of the High-ways within their respective Parishes, shall be yearly chosen and nominated by such Persons as by the Act made in the 2 and 3 years of King *Philip* and Queen *Mary* is appointed; (that is, by the Constable and Church-wardens of every Parish, calling together a number of the Parishioners) upon some day in the same week that the Feast of the Birth of our Lord, commonly called *Christmas* shall be, which Person so nominated and appointed, shall take upon them the said Office, upon pain of incurring the Forfeiture mentioned in the other Act of Parliament; and that this Statute of 22 *Car.* 2. seems to repeal that Clause of 2 and 3 *P.* and *M. Quoad tempus, sed non quoad modum*, as to the time of the Election of these Officers, but not to the manner and form of the choice.

3 & 4 K. Will. & Q. Mar. ch. 12.

And now by the Statute of the third and fourth years of their present Majesties Reigns King *William* and Queen *Mary*

Mary (which is the Law now to be observed) it is enacted, That the Conſtables, Headboroughs, Tythingmen, Churchwardens, Surveyor or Surveyors of the High-ways, and Inhabitants in every Pariſh ſhall aſſemble together upon the ſix and twentieth day of *December* every Year, unleſs that day ſhall be *Sunday*, and then on the ſeven and twentieth, and the Major-part of them as are ſo aſſembled, ſhall make a Liſt of the Names of a competent number of the Inhabitants in their Pariſh, who have an Eſtate of ten pounds by the Year in Lands, Tenements or Hereditaments either in their own Right or their Wives, or are worth an hundred pounds in perſonal Eſtate, or farm thirty pounds by the Year in Houſes, Lands, Tenements or Hereditaments, if there be any ſuch, or if there be no ſuch Perſons in the Pariſh, then they are to make a Liſt of the moſt ſufficient Inhabitants of the ſaid Pariſh.

The time and form of chuſing Surveyors according to the Laws now in force.

The Conſtables, Surveyors, &c. of every Town, Liberty and Precinct within the Pariſh are to aſſemble, and make a Liſt and return it, or every of them neglecting forfeit 20 s. as appears by another Clauſe in this Act, See p. 18.

Who are to be Surveyors, and how qualified.

This Liſt thus made, muſt be returned unto two or more Juſtices of the Peace in or near the Diviſion of the County in which their Pariſh lies at a Special Seſſions to be held by the ſaid Juſtices for that purpoſe within the ſaid Diviſion, on the third day

A Liſt to be returned to the J. P. at private Seſſions and when to be held.

of *January* next following, unleſs it ſhall happen on a *Sunday*, and then to be the fourth of the ſame Month, or within fifteen days after; of the time and place of holding of which ſaid Special Seſſions, the Juſtices muſt give ten days notice, at the leaſt, before the holding thereof to the Conſtables, Headboroughs, Tythingmen, Churchwardens and Surveyors of the High-ways of every Pariſh within the ſaid Diviſion, and then and there the ſaid Juſtices by Warrant under their Hands and Seals, ſhall nominate and appoint out of the ſaid Liſts one, two or more at their diſcretions of ſuch Perſons as they think fit, being of like ſufficiency as aforeſaid, to be Surveyor or Surveyors of the High-ways of every Pariſh within the Diviſion, or for any Hamlet, Precinct, Liberty, Tything or Town therein for the Year enſuing: And the Perſon or Perſons ſo nominated and appointed within ſix days after are to be ſerved with the ſaid Warrant or Warrants, or the ſame, or a true Copy thereof muſt be left at his or their Houſes, or uſual places of Abode by the Conſtables, Headboroughs, Tythingmen, Churchwardens or Surveyors of the High-ways, for the time being

Notice to be given before the holding of the ſpecial Seſſions of the time when, and place where, and the Juſtices forfeit 5 l. if they neglect to keep ſuch a Seſſions, or to put this Act in execution.

Juſtices of Peace to nominate the Surveyors.

Perſons named to have notice.

being, or ſome of them, and from thenceforth the Perſon or Perſons ſo nominated and appointed ſhall be Surveyor or Surveyors of the High-ways for the Year following, for the place for which he is ſo nominated, choſen and appointed, and ſhall take the Office upon him or them, and duly execute the ſame according to the Laws made for the enlarging, amending and repairing of High-ways.

Forfeiture for refuſing the Office, or neglecting the ſame.

And if the Perſons ſo nominated and ſerved with the ſaid Warrant do refuſe or neglect the Office, he or they ſo refuſing and neglecting ſhall forfeit five pounds, to be levied on his or their Goods and Chattels by diſtreſs and ſale of them, by Warrant under the Hand and Seal of two or more Juſtices of the Peace of the ſame Diviſion, or in default thereof of any Neighbouring Juſtices of the Peace for the ſame County, which Warrant the ſaid Juſtices are impowred and required to make, upon information of any one credible Witneſs upon Oath, one moiety to go to the Informer, and the other moiety to the Repairs of the High-ways of the ſame Pariſh, rendring the overplus, if any be, to the Owners, Charges of the Diſtreſs and

Quare who ſhall ſerve the Warrant, and make diſtreſs and ſale, for no Officer is named.

Sale being first deducted: And in case of such neglect or refusal as aforesaid, the said Justices are to nominate and appoint some other fit Person or Persons to perform the said Office, who upon notice given as aforesaid, are to take the Office upon him or them, and upon neglect or refusal thereof to forfeit five pounds to be levied and disposed of as aforesaid; and if the Constables, Headboroughs, Tythingmen, Churchwardens, and Surveyor or Surveyors of the High-ways of any Parish, Town, Liberty or Precinct, or some of them do not return such List of Names as aforesaid, every of them so neglecting shall forfeit twenty shillings, to be levied in the manner, and imployed to the uses aforesaid: And if any Surveyor of the High-ways after his acceptance of the Office, neglect his Duty in any thing required of him by the Statute of the third and fourth Years of their Majesties Reigns, King *William* and Queen *Mary*, Chap. 12. He shall for every such Offence forfeit forty shillings to be levied and disposed of as is aforesaid; but all Persons for any Offence against this Statute, are to be prosecuted within six months after the Offence committed, and such Person who

Upon refusal of the Office, J. to appoint others.

Forfeiture for not returning a List of Names.

Penalty for neglect, after the acceptance of the Office.

Offences to be prosecuted within six months, and those punished by this Act, to be punished by no other Law.

who are punished for any Offence by this Act, shall be punished by no other Law for the same Offence.

Surveyors during the time of their continuance in their Office are to cause the several Acts of Parliament in force, made for repairing and amending of High-ways to be put in execution, within the Limits of their respective Parishes and Places, and the penalties thereby imposed, to be levied and disposed of as by the said several Acts is directed, and upon refusal or neglect thereof, upon complaint made to any Justice of the Peace of the Place or Division where such neglect shall be proved to be done, and conviction of the Parties by the Oath of any one credible Witness before the said Justice, or upon the view of the Justice himself, they shall incur such penalty as the Justice shall think fit to impose, not exceeding forty shillings for one Offence, the same Fine to be levied by the High-Constable of such Place or Division, or any other Officer by Warrant under the Hand and Seal of such Justice of the Peace upon the Goods and Chattels of the person so offending (rendring the overplus to the Owner thereof, all necessary Charge in the levying

Surveyors not putting the Acts of Parliament in execution to be fined by the Justices, 3 & 4 K. Will. & Q. Mar.

Fines by whom to be levied, and how to be disposed of.

vying the ſame being firſt deducted) to be imployed for the amending the High-ways of the Pariſh or Place where ſuch neglect ſhall be found, as the ſaid Juſtice or Juſtices ſhall appoint for the doing thereof.

CHAP. III.

What things are firſt to be done by the Surveyors of High-ways, after they have taken the Office upon them, and within what time, and under what penalty, and how to be levied and diſpoſed of.

2 & 3 P. & M. ch. 8. Wing. Bridges ſect. 5.

THE Conſtables and Churchwardens of every Pariſh, with ſuch of the Pariſhioners as did in *Eaſter* Week make choice of their Surveyors for their High-ways, were at the ſame time to appoint four days for amending their High-ways betwixt that time and *Midſummer*-day next following, and publick notice of the ſaid four days was to be given in the Church the *Sunday* next after *Eaſter*; but by the Statute 22 *Car.* 2. this Clauſe is altered in all particulars: 1. As to the Parties that are to appoint the days

Then by the Stat. of 5 Eliz. ch. 13. ſix days were to be appointed in manner aforeſaid, Wing. Highways, ſect. 14.

2. As

2. As to the time and place of giving notice. 3. As to the number of the days: And 4. As to the time of the year.

The Surveyors of the High-ways having taken the Office upon them, are to appoint ſix days for the providing of Stones, Gravel, and other Materials for the amendment of, and for working in the High-ways, having reſpect to the Seaſon of the Year, and the Weather, and giving notice publickly ſome convenient time before the ſeveral days; at which days all perſons liable to the ſaid Work ſhall attend and work accordingly: And in ſuch places where the High-ways cannot be ſufficiently amended before the Feaſt of the Nativity of St. *John Baptiſt* yearly, the ſame may and muſt be ſufficiently amended before the Feaſt of St. *Luke* yearly, without incurring any penalty for the not doing thereof before the ſaid Feaſt of the Nativity of St. *John Baptiſt*, according to the former Act: And this is the Rule that is now to be obſerved.

How many days Surveyors are to appoint, 22 Car. 2. ch. 12. Wingate ſect. 39. High-ways.

Within what time the publick or common days works are to be performed, 22 Car. 2. ch. 12. Keb. St. 1. 1394. ſect. 3. Wingate ſect. 33. High-ways.

And every Surveyor of the High-ways, is within fourteen days after his firſt acceptance of the ſaid Office, and ſo from time to time every four months

Within what time Surveyors are to view all their Ways, &c. 3 & 4 W. & M. ch. 12.

months during his being Surveyor, t
take a view of all the Roads, Com
mon High-ways, Water-courſes, Bridge
Cawſeys and Pavements within th
Pariſh, Town, Village, Hamlet, Pre
cinct or Tything, for which he is ap
pointed Surveyor, that are to be re
paired by the ſaid Pariſh, Town, Vil
lage, Hamlet, Precinct or Tything
and muſt make a Preſentment upo
Oath in what ſtate and condition h
finds the ſame in, to ſome Juſtice o
the Peace of the ſame Diviſion, if the
reſident there, otherwiſe to ſom
neighbouring Juſtice of the Peace o
the ſame County, and in default ther
of to incur the ſame penalties as if h
had refuſed, or neglected to acce
and execute the ſaid Office (whic
penalty is five pounds, to be levied o
his Goods and Chattels by Diſtreſs an
Sale, by Warrant under the Hand an
Seal of two or more Juſtices of th
Peace of the ſame Diviſion, or in d
fault thereof any neighbouring Juſtic
of the Peace for the ſame County
unleſs he ſhew ſome reaſonable excu
(to be allowed by the Juſtices aforeſai
for omitting the ſame.

Preſentment to be made upon Oath, and to whom, and under what penalty.

An

And what defaults or annoyances the Surveyors shall find in any of the said High-ways, Cawseys, Bridges, Ditches, Hedges, Trees, Water-courses, Drains or Gutters next adjoining to the same, they are from time to time the next *Sunday* after Sermon ended to give publick notice thereof in the Parish-Church, and if the same be not removed, repaired and amended within thirty days after such notice, then the Surveyor or Surveyors are within thirty days to remove, repair and amend the same; and dispose of the same Annoyances for the repair of the said High-ways; and what Charges the Surveyor and Surveyors are at, they are to be reimbursed by the Parties who should have done the same; and if the parties refuse or neglect to pay the Surveyors their Charges upon demand, then the Surveyors making Oath hereof before any Justice of the Peace within the Division of the County wherein such Way is, or in default thereof to any neighbouring Justice for the said County, they shall be repaid all such their Charges as shall be allowed to be reasonable by the said Justice, to be levied in manner aforesaid; that is, by distress and sale of Offenders

Notice to be given in the Church of defaults and annoyances, and if not removed Surveyors to remove them, and how to dispose of them.

Surveyors to have their Charges repaid for removing of Annoyances, repairing, &c.

ders Goods and Chattels by Warra as is shewed before, but still here no Officer named that shall execu the Warrant and make the distress an sale.

CHAP. IV.

Who and what Persons are to appe and labour upon the publick or co mon Days appointed by the Su veyors for the amendment and r pair of High-ways, and where th are to appear, and after what ma ner, and how long they are to wor and under what Penalties, a how to be levied and disposed with some Cases and Resolutions r lating to these Matters.

2 & 3 P.& M. ch. 8. Stat. at large f. 289. Poulton High-ways 2. Dalt. J. P. ch. 50. f. 99. Lamb. Eirenarcha printed 1588. p. 474. Keb. 2t. f. 740. sect. 2. Bonds Compl. Guide for J.P. p. 110. Wing. High-ways sect. 6.

EVERY Person for every Plow Land in Tillage or Pasture th he or she shall occupy in the sam Parish, and every other Person keepi there a Plow or Draught, shall fin and send at every day appointed f the amending of their High-ways t the place to be appointed, one Wa or Cart furnished after the Custom the Country, with Oxen, Horses, oth

Where they keep all Horse Teems, there they may

ther Cattel, and all other Neceſſaries
eet to carry things convenient for
at purpoſe, and alſo two able Men
ith the ſame, upon pain of every
raught making default ten ſhillings;
nd every Houſholder, and alſo every
ottager and Labourer of the Pariſh,
ble to labour, and being no hired
ervant by the Year, ſhall by them-
lves, or one ſufficient Labourer for
very of them, upon every of the ſaid
ays, work and travel in the amend-
ent of the ſaid High-ways, upon
ain of every perſon making default
o loſe for every day twelve pence;
nd if the ſaid Carriages of the Pariſh,
r any of them ſhall not be thought
eedful by the Surveyors to be occu-
ied upon any of the ſaid days, that
hen every ſuch perſon that ſhould have
nt any ſuch Carriage ſhall ſend to the
id Work for every Carriage ſo ſpared,
wo able Men there to labour for that
ay, upon pain to loſe for every Man
ot ſo ſent to the ſaid Work twelve
ence; and every Perſon and Carriage
boveſaid, are to bring with them
hovels, Spades, Picks, Mattocks, and
ther Tools and Inſtruments neceſſary
or the ſaid Work; and all the ſaid
erſons and Carriages are to do their
Work

ſend a Cart furniſhed, and where they keep Draughts and Oxen there they muſt ſend a Wain and not a Cart, for if the Party keep both a Wain and a Cart, yet he muſt ſend that which will do beſt ſervice, and that is a Wain. Dalt. ibid. f. 100. Poult. High-ways 4. Bond ibid. p. 111. Keb. ubi ſupra, Wing. ubi ſupra.

Two able Men to be ſent for every Carriage ſpared, Dalt. ibid. f. 100. Poult. ibid. High-ways 3. Wingate High-ways ſect. 7.

Note, that neither Women nor Children are to be ſent to the common days Works. But by the Stat. of 22 Car. 2. ch. 112. the forfeiture is made 1 s. 6 d. and ſo it is for every day Labourers making default.

Work as they shall be appointed
the Surveyors or one of them, e
hours of every of the said days, un
they shall be otherwise licenced by
said Surveyors, or one of them.

Stewards in Leets, and in their default J. P. at Sessions to enquire of defaults upon this Statute. St. at large f. 289. Keb. ibid. f. 740. sect. 2. Wing. ibid. sect. 8.

Stewards in Court-Leets have pow
to enquire after the Offences aforesa
committed within the Precincts of th
Leets, and set reasonable Fines a
Amerciaments upon Offenders, and
within six weeks after *Michaelmas*
deliver indented Estreats of such Fi
under their Hands and Seals, *viz.* o
part thereof to the Bailiff or Hig
Constable of the Hundred, Rape, La
or Wapentake, and the other to
Constables and Churchwardens of
Parish where the defaults were ma
and in default of Presentments in
Leet, then the Justices of the Peace
the County at every general Quarte
Sessions may enquire thereof, and
such Fines as they or any two of the
(whereof one of them to be of
Quorum) shall think fit, of whi
the Clerk of the Peace is to make
dented Estreats under his Hand a
Seal in like manner as the Stewards
Leets are to do; and these Estre
shall be a sufficient warrant to
Bailiff or High-Constable to levy

Bailiff or High-Constable to levy and make account Dalt. J. P. f. 103. Poult. High-ways 10, 11. Wingate High-ways sect 11

id Fines by way of diſtreſs, and if o diſtreſs can be found, or the party bſtinately refuſeth, and does not pay he Fine within twenty days after demand, he or they ſhall then forfeit ouble ſo much, and the Bailiff or igh-Conſtable ſhall every Year bewixt the firſt of *March* and laſt of *April* render to the Churchwardens of he Pariſh where the Offence is committed (and who have the other part f the Eſtreats) an account of the Mony received by him on pain of orty ſhillings; and the Churchwar- Pain for not accounting, Poult. High-ways 10,11. Compl. J. 166, 167 Wing. ubi ſupra.
ens have power to call the Bailiff or igh-Conſtable to account before two r more Juſtices of the Peace (where- f one of them to be of the *Quorum*) who have power to commit the Bailiff r High-Conſtable till he have paid ll the Monies received by him, ſave ight pence in the pound for himſelf, nd twelve pence in the pound for the teward or Clerk of the Peace that made out the Eſtreats, for their Fees, which Monies are to be beſtowed on Monies how to be beſtowed, Wing. ibid. ſect. 10
he Repair of the High-ways of the Pariſh where the Offences were committed; and the ſucceeding Churchwardens have the ſame power of calling their predeceſſors to account as they

they had againſt the Bailiffs; but t
Surveyors are now to preſent the d
faults upon this Statute, and upo
5 *Eliz.* 13. and 22 *Car.* 2. 12. with
one month after any default, &
And by the Statute 3 and 4 King *Wi*
liam and Queen *Mary*, *chap.* 12. th
are to be preſented every four month
ſo ſee afterwards, *chap.* 7. about Pr
ſentments.

18 Eliz. ch. 10. After the making of the Statute
2 and 3 *P.* and *M.* ſome Scruples b
ing raiſed about ſuch Perſons as ha
a Plow-land lying in ſeveral Pariſhe
part in one Parith, and part in anoth
where he ſhould ſend his Draught, a
about thoſe who had ſeveral Plow
lands, how they ſhould be charge
and ſome other *Quæres*, for reſolvi
of which Doubts, and explaining
St. at large f. 609. Keb. f. 859. ſect 2. Poult. 12. Lamb. 474. Dalt. 100. Wing. High-ways ſect. 18. the ſaid Act of Parliament, it is enac
ed by the Statute 18 *Eliz.* That ever
Perſon (except ſuch as dwell in th
City of *London*) aſſeſſed at five pound
in Goods to the Subſidy, or wort
forty ſhillings or above in Lands, b
ing none of the Parties chargeable
the amendment of High-ways by a
former Law; but as a Cottager is t
find two able Men yearly at the pub
lick or common day-works to labou

ih the High-ways as by the Statute is appointed. And every perſon or perſons occupying a Plow-land in Tillage or Paſture, which lies in ſeveral Pariſhes is chargeable only in the Pariſh where he lives, in the ſame manner as any perſon is, having a Plow-land all in one Pariſh; and he which keeps in his hands or poſſeſſion ſeveral or divers Plow-lands, as aforeſaid, in ſeveral or divers Towns, ſhall be chargeable to find in each Town or Pariſh (where the Plow-lands being in his occupation do lie) one Cart, Wain, Tumbrel, Dung-pot or Court, Sleads, Cars or Drags furniſhed for the amendment and repair of the High-ways within the ſeveral Pariſhes where the ſaid Plow-lands do lie, as if he or they were a Pariſhioner dwelling there.

Reb. ubi ſupra, ſect. 3. & 4. Poult. 13, 14. Dalt. 99. Bond 110, 111. Compl. Juſt. p. 161. Wing. ibid. ſect. 19.

He which keeps a Plow-land in ſeveral Towns to ſend a Draught to every Town, Wing. ubi ſupra.

And in ſuch places where there is no uſe of Cart and Teams for the amendment of High-ways, but the uſage is to carry materials for ſuch amendment upon backs of Horſes, or by any other kind of Carriages; the Inhabitants there ſhall ſend in ſuch their Horſes as are accuſtomed to that kind of Labour, and ſuch their other Carriages, with able perſons to work with the ſame, in like manner and under

Reb. Stat. f. 1339. ſect. 8. 22 Car. 2. ch. 12. Dalt. f. 100. Bond 111. Wing. High-ways, ſect. 37

der the like penalties as is appointed for Carts and Teams.

22 Car. 2. ch. 12. Keb. ubi supra sect. 9. Dalt. f. 102. Bond 111. Wing High-ways sect. 38

If any fail to make their respective day labours every year for and towards the repairing the High-ways, or neglect to send their respective Carriages, Horses and Carts as by Law they are respectively required, the Surveyor are to make complaint thereof to the next Justices of the Peace, who upon Oath thereof made by one Witness may levy by distress and sale of every person failing or neglecting as aforesaid, (and not having a reasonable excuse to be allowed by the said Justice,) that is to say, of the Goods and Chattels of every day-labourer one shilling and six pence, and after that rate for every Labourer that is to be set in, and for every Man and Horse three shillings, and for every Cart with two Men ten shillings, for every respective day they shall make default (rendring the overplus to the Owner reasonable Charges being first deducted) which respective penalties so levied shall be imployed for and towards the repairing the High-ways, in every respective Place and Parish.

Wing. ubi supra.

Having shewed how those that occupy and keep a Plow-land are charged

able to the repair of High-ways, I shall now proceed to shew some Opinions what a Plow-land is, and set down some Cases and Resolutions about this matter.

A Plow-land, Hide, or Carve of Land, being all one as some hold, is not of any certain content, but so much as one Plow by course of Husbandry may Plow in one year, *Tanta fundi portio quanta unico per annum coli poterat Aratro*; and so in some Countries it is more, and in some less, according to the heavines or lightnes of the Soil, and herewith agreeth Mr. *Lambart verb. Hide.* And Sir *John Prisot* Lord Chief Justice of the Common Pleas, saith, That a Plow may till more Land in a year in one Country than another, and therefore it stands with reason, that a Plow-Land should be less in one Country than another, *vide* 35 *H. 6. fol.* 29. And a Plow-land may contain a Messuage, Wood, Meadow and Pasture, because that by them, the Plowmen and the Cattel belonging to the Plow are maintained; And venerable *Bede* calls a Plow-land *familiam*, because it containeth necessary Things for the maintenance of a Family: And *Crompton*

Co. Lit. f. 69. a. Co. Rep. 4. lib. f. 37. b. & 9 lib. f. 124. a. Dalt. f. 104, 105.

In the Reign of King H. 6.

Vide in Hill and Granges Case, Plo. Com 168. & 6 E. 3. 42. 19 H. 6. 8. a.

in his *Jurisd. fol.* 222. says, A Hide of Land (being the same with a Plow-land) contains one hundred Acres, and that eight Hides make a Knights Fee; but Sir *Edward Cook* holds, That a Knights Fee, a Hide or Plow-land, a Yard-land, or Oxgange of Land, do not contain any certain number of Acres. In ancient time a Plow-land was of the yearly value of five pounds, and this was the Living of a Plowman or Yeoman.

Dalt. J. P. ch. 50. f. 104.

Some differences arising upon several Presentments, what should be the Content of a Plow-land, an Order of Explanation was made, 1 *Octob.* 16. *Jac.* That an hundred Acres should be esteemed; but afterwards in King *Charles* I's. Time, eight Acres was to be accounted a Plow-land, and so proportionably to be charged for mending High-ways.

He that keeps two or more Draughts for his own use, should send as many to the amendment of the High-ways, Dalt. J. P. ch. 50. f. 105. Compl. Just. p. 164

A Man that goes with two Draughts usually, or more, for the dispatch of his own Husbandry, and keeps perhaps above an hundred Acres of Tillage Land, does usually send but one Wain or Cart furnished to the common day works for the amendment of the High-ways; and he that keeps but one Draught and hath but a small quan-

tity of Tillage, perhaps of what the other hath, yet he is chargeable to ſend his Wain or Cart furniſhed to the ſame Work, which by ſome hath been thought very hard; therefore it hath been thought reaſonable, and warranted by the Statute, that he that for his own private buſineſs ſhall uſually make and ſet up two Draughts or Carts, ſhall alſo for the King and Countries Services be chargeable with two Draughts or Carts, though he occupy all his Land but with one Plow, and the more Draughts he uſeth, the greater damage he doth to the High-ways, though a greater advantage accreweth to himſelf; And *Qui ſentit commodum, ſentire debet & onus:*

He that doth Profit get,
At the Burden ſhould not fret.

This matter in a like Caſe came in debate in the Kings Bench in *Michaelmas*-Term, 27 *Car.* 2. upon an Order made by the Juſtices of the Peace in *Middleſex*, for charging ſeveral Brewers and Bricklayers living there, and uſing ſeveral Draughts to ſend ſo many as they kept, for the repairing of the High-ways; and the Order Dalt. & Compl. J. ubi ſupra.

der being removed into the King's Bench, a *Procedendo* was awarded by the Lord Chief Justice *Hales*; and the whole Court were all strongly of Opinion, that so many Draughts as they kept, so many they ought to send, for so the service they will do, will answer the wrong and damage by them occasioned in the High-ways.

Dalt. J.P. f. 105, 106. If a Man occupieth a Plow-land in Pasture for feeding of Cattel, but keepeth neither Cart nor Plow, yet the Words of the Statute seem to charge him to find a Cart ready furnished, and two able Men; and so he that keepeth a Draught for Carriage, or a Plow, though he occupieth little or no Land or Pasture in his own hands, yet he is chargeable to find a Cart for the amending the High-ways, although he keeps his Plow and Cart only to carry and plow for other Men; but *quære* (saith Mr. *Dalton*) whether he is chargeable to send two able Men with his Cart, except he hath in his occupation a Plow-land; for the Statute seems not (saith he) to charge such a Man to send two able Men with his Cart, and perhaps he keeps not a Man, and then it were hard; but if the Rule in Law hold, *absoluta sententia*

tentia expoſitore non indiget, then ſuch a Perſon muſt ſend two able Men with his Cart; for the words of the Statute 2 and 3 *P.* and *M. chap.* 8. are, Every perſon for every Plow-land in Tillage or Paſture that he or ſhe ſhall occupy in the ſame Pariſh, and every other perſon keeping there a Plow or Draught, ſhall find and ſend, *&c.* which is plain and back'd with another Rule in Law, *Generale dictum generaliter eſt accipiendum*; and then there is no excuſe but he muſt ſend two able Men. And if this be an hard Caſe, it is as hard that a poor labouring Man who is ſcarce able to get Bread for his Family, ſhould be (as by the Statute he is) compellable to go himſelf, or ſend an able Labourer in his room to the common day works appointed for amending the High-ways, when another Man in the ſame Town that keeps neither Plow-land nor Draught nor Cart, and ſo comes under the denomination of a Cottager, and perhaps is worth five or ſix hundred pounds, is but to ſend two able Men.

He that keeps a Cart for hire, and goes with one or two Horſes, muſt ſend his Cart to the amendment of the Da'r. Pach 50. f. 105.

High-ways, with ſo many Horſes as he goes withal for hire, to carry ſuch Loads as they are able to draw.

Whether Miniſters are to ſend their Draughts to the common days works.

It hath been as a *Quære* by ſome, whether Miniſters that keep a Plow, Cart or Wain, and a Draught to load their Tythes, and till their Glebe, be chargeable to ſend a Cart or Wain, and two able Men to the amendment of the High-ways, and it hath been the general Opinion that they are not bound to ſend any; for my Lord *Coke* ſaith, That true it is, that Eccleſiaſtical perſons have more and greater Liberties than other of the Kings Subjects, wherein to ſet down all would take up (ſaith he) a whole Volume of it ſelf; ſo he only doth inſtance and ſhew ſome few particulars, *viz.* That ought not in perſon to ſerve in War, nor are they to appear at Sheriffs Tourns or Views of Frankpledge, and they ought to be quit and diſcharged of Tolls and Cuſtoms, Average, Pontage, Pannage, Paviage, and the like; and if they be moleſted or diſtrained for any of theſe, they may have a Writ out of the Chancery for their diſcharge, as appears by the Regiſter and *Fitzherbert*; *Rex Ballivis ſuis de B. ſalutem, cum perſonæ Eccleſiaſtica*

Co. 2 Inſt. f. 3.

Co. 2 Inſt. f. 4. Marlbr. ch. 10. Briton p. 19. b. ch 12. n. 40. Fleta lib. 2 ch. 52 ſect. 7. But if they are chargable to pay towards the repairing of decayed Bridges by the words of the St. 22 H. 8. chap. 5. which makes every Inhabitant liable, Co. 2 Inſt. f. 704.

Regiſt. f. 260. a. F. N. B. f. 227. F. Degs Parſons, Co. 4 Edition printed 1685 p. 122, 123,

ticæ *secundum consuetudinem hacte-*
us in Regno nostro usitatam & ap-
probatam, ad Toloniam, Pannagium,
duragium, &c. *de bonis suis Eccle-*
siasticis alicubi in eodem Regno præ-
and. nullatenus teneantur, vobis præ-
pimus quod L. S. *personam Ecclesiæ*
W. ad Toloneum, &c. And when
ny Charge is intended to be put up-
n them or their Spiritual Promoti-
ns, they are set down in expres
erms, and particularly named; and
e general Custom hath been to ex-
use them, and it is a Rule in Law,
ptimus Interpres Legum consuetudo,
Custom is the Laws best Interpreter:
nd where the penning of a Statute Vaugh. Rep. f. 169
dubious, long usage is a just Me-
ium to expound it, for *jus & nor-*
na loquendi is governed by usage, and
he meaning of things spoken or writ-
en, must be as it hath constantly been
eceived to be by common accepta-
ion, by all which it appears that Mi-
isters should be excused from the
ommon or publick days works ap-
ointed for the amendment of High-
ways, in respect of their Church
Livings only; for if they hire or
arm any Lands, and keep a Draught
o mannage those Lands, I presume

But they are liable to pay their proportion of Assessments made for the repairing of High-ways.

they

they are chargeable to ſend to the
pairing and amending the High-w
for thoſe Lands they ſo farm.

CHAP. V.

How Trees, Hedges and Buſhes gr
ing in or adjoyning to High-w
are to be ordered, and to whom
Freehold of High-ways belongs,
who ſhall have the Trees grow
therein, when they are cut do
and about ſcowring Dikes and G
ters, and making of Trenches,
what Forfeitures for defaults
neglects, and how to be levied
diſpoſed of, and what bre
High-ways and Cauſeys in them
to be.

13 E. 1. St. 2. Winchest. ch. 5. Wing. Robberies sect. 7. St. at large f. 49. Poult. High-ways 18. Dalt. J. P. ca. 50. f. 98. Keb. St. f. 53.

IT is provided by the Statute
Wincheſter, That High-ways
ing from one Market-Town to
other, ſhall be enlarged two hund
Feet on either ſide of the High-w
ſo that there be neither Dike, T
nor Buſh (other than Aſhes and g
Trees) whereby a Man may lurk to
hurt; and if any Robbery be comm
ted for want of cutting down
Di

ike, Underwood and Buſhes, then
Lord that ought to cut them down
to anſwer for the Felony, and if any
urther be done he is to make Fine
the King; and if the Lord be not
le to cut down the Underwoods,
e Country ſhall aſſiſt him; and in
e Kings Demeſne Lands and Woods
ithin his Foreſt and without, the
ays ſhall be enlarged as aforeſaid:
d where a Park is taken from the
gh-way, it ought to be two hun-
ed Foot from the High-ways, or
ade with ſuch a Wall, Dike or Hedge
at Offenders may not lurk and have
erty and freedom to paſs and repaſs
d do Evil.

This Statute hath never been fully ſpecially within the time of our Memories) put in Execution; for thoſe that are acquainted with travelling the high-ways and Roads, may ſee in every County in ſeveral places thereof, great Underwoods adjoyning cloſe to the high-ways, where Rogues may and have lurked, and when Robberies have been committed, the Country and not the Lords have anſwered for the Felony: and Parks in many places are adjoyning cloſe to the High-ways not ſo fenced as the Statute requires.

The Stat. of Winchester for cutting down Woods &c. and clearing the Highways 200 Foot on each ſide, not put in Execution.

The

27 H.6. f.8. a. per Cur. 17 E.3. f.43. 6 E.3. Chimin 2. 2 E.4.f.9.a. pl.21. 8 E.4. f.9.a. pl.7. 8 H.7. f.5.b. pl.7. Kitch.Court Leet printed 1585. p. 48.b. 49.b. 50. b. Rolls Cases 1 part f.392. B.5.10.

The Lord of the Leet or Man who hath the Land on both ſides an High-way, ſhall have the Tr growing in the ſaid Way; and where the High-way is over the Lo Waſte, for the King hath but the f paſſage for him and his people, h the Freehold and all the Profits are the Lord of the Soil, as Trees, Gr &c. and he may have an Action the Trees taken away, or eating Graſs, or digging the Soil, &c. I have known an Action of Treſp brought for eating the Graſs grow in an High-way; and although it accuſtomable for Salters and Colliers bait their Horſes and eat the Gr growing in the High-ways, yet th are Treſpaſſers in ſo doing.

2 E.4.f.9.a.pl.21. per Littl. 8 H.7.f. 5. b. pl. 2. 18 El. B.R. per Curiam Rolls Cases 1 p. f.392.B.10 Kitch. Court Leet, &c. printed 1985. p. 48. b.

And generally the Owner of t Soil on both ſides of the High-w ſhall have the Trees growing in t High-way; but he who hath the La but adjoyning on one ſide of t High-way, ſhall not have the Tr growing upon that moiety of the Hig way.

Paſ.11 Jac.1.B.R. Inter Sir Thomas Pelham quer. and Wiat and Pack defen. Rolls Cases 1 p.f.392.B.15.20

The Lord of a Rape within whi there are ten Hundreds, may preſcri to have all the Trees growing in a High-way within that Rape, althou

e Mannor or Soil adjoyning be another
ans; for uſage of taking the Trees is
good Badge of Ownerſhip.

The Statute of 5 *Eliz.* provides, 5 El. ch. 13. Stat. at large f. 443 Poult. High-ways 7, 8. Keb. f. 802. ſect. 7, 8. Lamb. p. 475. Dalt. J. P. l. 100. Bond p. 111. Comp. Juſt. p. 162. Wing. High-ways ſect. 13.
hat all Heyes, Fences, Dikes and
edges next adjoyning on either ſide
any high or common fairing way,
all from time to time be diked,
owred, repaired and kept low, and
l Trees and Buſhes growing in the
igh-ways, cut down by the Owner
Owners of the Ground or Soil
hich ſhall be incloſed with the ſaid
eyes, Fences, Dikes or Hedges afore-
id, whereby the ſaid Ways may be
en, and the people have more ready
nd eaſie paſſage in the ſame; here is Wing. High-ways ſect. 15.
o penalty ſet down, but the Super-
iſors within one month after Default
Offence made, done or committed
y any perſon or perſons contrary to
is preſent Act, ſhall preſent it to the
ext Juſtice of the Peace on pain of
orty ſhillings, and the Juſtice on pain
f five pounds (Mr. *Keble* ſaith a a The Book of the Statutes at large printed 1587. f. 444. ſaith 5 l. Wing. ubi ſupra ſaith alſo 5 l.
undred pounds, but I ſuppoſe its a
iſtake) is to certifie the ſaid Preſent-
ent at the next general Seſſions, and
e Juſtices at the Quarter Seſſions,
r any two of them (whereof one to
e of the *Quorum*) are to aſſeſs Fines
for

for ſuch Defaults. But here being mention made how the Surveyors forty ſhillings Fine ſhall be levied paid, few Preſentments were in Caſes made, and ſo the Statute was little effect as to theſe particulars.

18 El. ch. 10. Stat. at large f. 609, 610. Keb. Stat. f. 859. ſect. 5.

To ſupply the defects of this tute, another Act of Parliament made in the eighteenth year of Q. *Elizabeth*, and there is it enacted That all and every perſon and perſons that ſhall not repair, ditch or ſcour any Heyes, Fences, Ditches or Hedges adjoyning to any High-way or Common Fairing-way, or ſhall not down or keep low all Trees and Bushes growing in or next adjoyning to of the ſaid Ways, according to true intent of 5 *Eliz. chap.* 13. every Offence therein committed, forfeit and loſe for every Default ten ſhillings, to be levied in every Pariſh by the Surveyors of the High-ways within that Pariſh for the time being; by diſtreſs, and ſale of diſtreſs in manner and form as Fines and Amerciaments in Leets have been uſed and the Mony to be imployed upon the High-way where the Offence was committed; and in default of the Surveyors not levying and imploy-

By 5 Eliz. ch. 13. they are to cut down the Trees and Bushes, but by this Act, if they be but kept low, it ſeems is ſufficient. Wing. High-ways ſect. 20, 22.

ſame within one year after the
ence committed, then to be levied
form aforeſaid by the Conſtables or
urchwardens of the Town or Pariſh
ere the work ought to be done,
the High-way as aforeſaid; and
t he or they ſo levying any of the
Penalties or Forfeitures ſhall make
yield ſuch account as is appointed
the Statutes of 5 *Eliz. chap.* 13.
2 and 3 *Ph.* and *M.* or either of
m.

It is enacted by the Statute of and 4 of their preſent Majeſties igns, King *William* and Queen *ary*, That no Tree, Buſh or Shrub ll be permitted to ſtand or grow in y High-way not full twenty Foot oad, but the ſame ſhall be cut down, obbed up and carried away by the wner or Owners of the Land or il where the ſame grows, within n days after notice given to him or em by the Surveyors of the High- ays, or any of them, on pain of e ſhillings for every neglect, to be ied on his or their Goods and attels by diſtreſs and ſale of the ne by Warrant under the Hand and al of two or more Juſtices of the ace of the ſame Diviſion, or in de-

3 & 4 W. & M. ch. 12.

Qu. If the High-way be not above 20 Foot broad, whether the Trees, &c. need be cut down or no by the words of this.

Quære how the diſtreſs ſhall be taken and penalty levied, for here is power given to Juſtices to make a Warrant, but no Officer named to execute it, as is uſually done in ſuch Caſes in other Statutes.

fault

fault thereof, any neighbouring
ſtices of the Peace for the ſaid Co
which Warrant the ſaid Juſtices a
make upon information upon Oa
any one credible Witneſs, one m
to the Informer, and the other m
towards the Repairs of the High-w
of the ſaid Pariſh, rendring the o
plus, if any be, to the parties diſtr
ed, the Charges of diſtreſs and ſal
ing firſt deducted.

3 & 4 W. & M. chap. 12. If the way be above 20 Foot broad. Qu. if the Hedges muſt be plaſht, &c. for the Intention of the Parliament is, That People and Carriages in ſuch narrow ways might have free paſſage, and the Sun ſhine into them to dry them; but if they be above 20 Foot broad it ſeems by theſe words as if there were no need of ſuch plaſhing and pruning.

And the Poſſeſſors of Land
adjoyning to the High-ways w
they are not twenty Foot broad,
from time to time, and at all ti
keep their Hedges plaſht, cut or p
ed, ſo as no Tree, Buſh or Shrub
grow or ſtand in any ſuch High-w
nor any Bough or Branch over-h
the ſame or any part thereof, but
Hedges muſt be kept cut and p
right up from the Roots, ſo that
may not ſpread and hang into
High-way, ſo that there may b
clear and free paſſage for all ſorts
Travellers and Carriages, and that
Sun may freely ſhine into the ſaid W
to dry and amend the ſame; for
ſome narrow Ways the Trees
Hedges over-hang them ſo much,
neither Sun nor Wind can come

y them, and so they are always bad, and besides, People who are Strangers and travel there after it is dark, are danger of being knockt off their orses, or of scratching their Faces, or aring their Clothes, or some other mischief.

Every Supervisor or Supervisors within the Parish or Limits where they e Supervisors, have power and authority by virtue of the Statute 5 *El.* turn any Water-course or Spring of ater, being in the High-ways, in- any Ditch or Ditches of the several ound or Soil of any person or per- s whatsoever, next adjoyning to said Ways, in such manner and m as they think fit and convenient. d all such as occupy any Lands ad- ning to the Ground that joyns up- the High-way, in which any ditch- or scouring should or ought to are as often as need requires to ch and scower the said Ground, so t the Water conveyed from the gh-way over the Ground next ad- ning, may have passage over the er Ground so next adjoyning to it, on pain to forfeit for every Rod ive pence for every time the same not ditched and scowred, to be

5 El. ch. 13 Stat. at large f. 443, 444, Poult. High-ways 86. Keb. St. f. 802. sect. 6. Dalt. J.P. f. 103. Bond. p. 112. Wing. High-ways sect. 21 & 12.

18 El. ch. 10. Stat. at large f. 609, 610. Poult. ibid. 15. Keb. ibid. f. 857. sect. 6. Wing. ibid. sect. 26.

levied by the Surveyors, or in default by the Constables or Churchwardens, and to be disposed of is shewed before in this Chapter.

13 El. ch. 10. St. at large ubi supra. Poult. High-ways. 16. Keb. ubi supra fect. 7. Lamb p. 475 Wing. High ways sect. 21.

That is, by the Surveyors, or in their default by the Constables or Churchwardens, see before in this Chapter.

3 & 4 W. & M. ch. 12.

Before the making of this Stat. 3 & 4 W. & M. they had no such power of making Drains in Mens Grounds.

en, and come upon any of the
d Lands whith their Workmen for
doing.

It is enacted by the Statute 3 and 4 their present Majesties Reigns, King *Williams* and Queen *Mary*, That the Surveyors of the High-ways shall and are required by the said Act to make every Cart-way leading to any Market-Town, eight Foot wide at the least, and as near as may be, even and level; there is no penalty set down in case of Fear in the Surveyors, but I suppose it will come within the words of another Clause in this Act, where it is said, That if any Surveyor of the High-ways after his acceptance of his Office, shall neglect his Duty in any thing required of him by this Act, he shall forfeit for every such Offence [illegible] shillings, to be levied and disposed of as the Act directs, and how that is see before in this Chapter. [illegible] how the Surveyors shall [illegible] such a Way eight Foot wide, if the Owners or Possessors of Lands adjoining to the narrow Ways will not offer it, for here is no provision made in such a Case, and the Surveyors cannot enlarge the High-way by laying

3 & 4 W. & M. ch. 12.

any part of another Mans Land to
without his consent.

3 & 4 W. & M. ch. 12.

By the Statute of 3 and 4 of
present Majesties Reigns, King
liam and Queen *Mary*, it is al
acted, That no Horse Cawsey,
Cawsey for Horses travelling upo
in any publick High-way, be l
under three Foot in breadth.
if defaults herein are to be pre
at the Justices special Sessions
where else, and how defaults
are to be punished, for here
penalty set down by the Act of
liament.

CHAP. VI.

What Stones and Rubbish the S visors may take for the a ment of the Highways, and in places and how they may d Sand, Gravel, &c. And when t necessitated to provide such rials at their Charge, how th to be reimbursed.

5 El. ch. 13. St. at large f. 443, 444. Poult. High-ways 5.

THE Supervisors of the H ways may without leave of Owner or Owners take and

way so much of the Rubbish and mallest broken Stones of any Quarry Quarries already digged, and lying within the Parish or Limits where they are Supervisors, as they shall think necessary for the amendment of their High-ways; but they are not to dig for any without leave of the Owners: And if there be no such Quarry or Quarries, or Rubbish to be found in any such Quarry or Quarries within their said Parish or Limits; then they may dig or cause to be digged in any Mans several Ground within their Parish and Limits, and nigh adjoyning to the High-way, for Gravel Land or Cinders, where they are to be found, and take and carry away as much as by their Discretions they shall think meet and convenient to be employed in the said High-ways; but they are not to dig in any House, Garden, Orchard nor Meadow of any Man, nor to dig any more Pits but one, and the same Pit or Hole shall not be in breadth or length above ten yards over at the most, which Pit they are to cause to be filled up within a month after with Earth, at the Costs and Charges of the Parishioners, upon pain to forfeit five marks to be re-

Keb. St. f. 102, sect. 3, 4. Dalt. J. P. f. 102. Wing. High-ways, sect. 22.

If there be a River not far from a High-way where there is Gravel, &c. to be had, and it cannot be gotten vvithout going through a Mans Close adjoyning to the High-vvay, though the Surveyors may dig in that Ground, not being Meadovv, &c. yet qu. vvhether they may justifie to go over the same to the River to fetch Gravel vvithout the Ovvners Licence; it seems by the vvords of the Statute as if they could not.

recovered by Action of Debt, a
other like Cases of Debt hath been
cuſtomed. The Surveyors may
gather or cauſe to be gathered St
lying upon any Mans Lands or Gro
within the Parish, and meet to
uſed for ſuch ſervice and purpoſe,
carry away ſo much as they think
ceſſary to be imployed in the am
ment of the High-ways.

Surveyors may gather Stones lying upon any Mans Lands.

There is no Exception of La
mentioned in the Act, as to the
thering of Stones, ſo that I pre
the Surveyors may gather Stones
a Mans Meadow-ground, but
they ought in Conſcience to do
ſuch a time of the Year, as
Meadow may not be ſpoiled there
and when the Surveyors dig for G
vel, &c. it muſt be done in Gro
nigh adjoyning to the High-way:
quære how far this ſhall extend,
whether they may dig in a
Ground lying two or three C
from the High-way without his le
and making him ſatisfaction for
damage; but I conceive if a
have a Cloſe that adjoyns upon
High-way, which hath fourſcore or
hundred Acres in it, that all this C
ſhall be ſaid nigh adjoyning to

No exception of Lands as to gathering of Stones.

Hig

...way, and that the Surveyors ... dig for Gravel, &c. in any part ... the Close where its likely to be ... without being Trespassers to ... Owner or Occupier of the said ...

When Surveyors of the High-ways ... have been forced to lay out their own ... monies for buying Gravel, Sand, Stones, ... and other Materials for the amend- ... ment of their High-ways, in such ... Parishes and Townships where they had ... none within themselves, and no pro- ... vision by Law, how they should be re- ... imbursed their Monies they have so ... laid out; It is now enacted by the ... Statute 3 and 4 of their Majesties ... reign King *William* and Queen *Mary*, ... That upon notice given by such Sur- ... veyors to the Justices of the Peace at ... their Special Sessions, and Oath made ... of what Sum or Sums of Mony are ... expended and laid out upon amend- ... ing and repairing the said High-ways, ... the Justices or any two of them at ... their Special Sessions by Warrant un- ... der their Hands and Seals may cause ... an equal Rate to be made for the re- ... imbursing the said Surveyor or Sur- ... veyors, the Monies by him or them ... laid out as aforesaid, upon all the In-

3 & 4 W. & M. ch. 12.

How Surveyors are to be re-imbursed the Monies they lay out.

Rate by whom and how to be made.

habitants of such Parish or Township where such Monies are so expended according to the Rules and Method prescribed in the Act for the relief of the Poor, made in the three and fortieth Year of Queen *Elizabeth*, (which Act directs the Taxation to be upon every Inhabitant, Parson, Vicar and other, and of every Occupier of Lands, Houses, Tithes impropriate, propriations of Tithes, Coloumnies, or saleable Underwoods in the said Parish) which Rate being allowed by the said Justices in their special Sessions, shall be collected and gathered by the said Surveyor or Surveyors of the High-ways, and if any person or Persons refuse to pay the Monies so assessed on him or them, that then the same shall be levied by the said Surveyors by distress and sale of the Goods and Chattels of the persons so refusing, rendring to the party the overplus, reasonable Charges for making the said distress first to be deducted.

43 Eliz. ch. 2.

Surveyors to distrain for the rate and sell the distress.

CHAP.

CHAP. VII.

When, where, and before whom, Presentments upon the Statutes for High-ways are to be made, and to whom, and within what time; and before whom account is to be made by Officers for Monies received by virtue of any of the said Statutes.

PResentments for Defaults in not coming to the publick or common days-works for amendment of the High-ways, by the Statute 2 and 3 *P.* and *M.* may be in the Leet or at the Sessions; and the Steward of the Leet or any two Justices at the Quarter-Sessions (whereof one to be of the *Quorum*) may set Fines at discretion; if it be in the Leet, then the Steward within six Weeks after *Michaelmas* is to deliver indented Estreats of the Fines under his Hand and Seal, one to the Bailiff or High-Constable of the Hundred, Rape, *&c.* And the other to the Constables and Church-wardens of the Parish where the default is made; and if it be in the Sessions, the Clerk of the Peace is to do the like, and the Bailiff or High-Constable are to levy by distress the Fines mentioned in the Estreats

2 & 3 P. & M. ch. 8. Stat. at large f. 289, 290. Poult. High-ways 9, 10, Keb. St. f. 741. sect. 24. Lamb p. 475. Dalt. J. P. f. 103. Bond Guide for Just. J. P. 112. Wing. High-ways, sect. 8, 9.

Wing. High-ways, sect. 10.

Estreats, and where no distress is to be found, or denial of payment for twenty days after demand, then the parties are to forfeit double so much, and the Bailiff or High-Constable are yearly betwixt the first of *March* and last of *April* to give account to the Churchwardens of the Parish where Offences shall be committed, on pain of forty shillings, and if they refuse to give account and pay all the Monies by them received, save eight pence in the pound for their own Fee, and twelve pence in the pound for the Steward or Clerk of the Peace Fees that make the Estreats, then the Churchwardens may call them before two or more Justices of the Peace (one to be of the *Quor.*) who have power to commit them till payment, and the Mony is to be bestowed on the repair of the High-ways of the Parish where the Offence was committed, and the succeeding Churchwardens may in like manner call their Predecessors to account.

Wing. Ibid sect. 11

Surveyors of the High-ways by the Statute 5 *Eliz.* are to present Defaults and Offences to the next Justice of the Peace within a month after they are committed, on pain of forty shillings, and the Justices on pain of five

5 El. ch. 13. & 22 Car. 2. ch. 12. directs the same to be done at the same time, Keb. St. f. 1396. sect. 12. Crom. 131. Dalt. J.P. f. 99. Poult. J. P. 69 Bond. p. 110. Comp. J. P. 101. Lambert p. 305. Wing. High-ways sect. 15, 16, 17.

pounds is to certifie the same Presentment at their next general Sessions; and by the same Statute every Justice of Peace may of his own knowledge in open Sessions make presentment of any high-way not sufficiently repaired, or of any other Default or Offence committed in the said County within the limits of his Commission contrary to this Act, or the 2 and 3 P. and M. which presentment shall be of the same force as if it had been presented and found by the Oath of twelve Men; and the Justices of any two of them (one to be of the *Quorum*) may at their general Sessions assess such Fines upon presentments as they think fit, saving to the persons so presented, their lawful Traverse to the same, as they might have upon an Indictment of Trespass or Forceable Entry; and the Fines upon such Presentments, to be estreated by the Clerk of the Peace, and levied and disposed of in manner and form aforesaid.

The Fines imposed and set on the presentment of a Justice of the Peace, and other Fines and Issues for not repairing of High-ways, being oftentimes returned into the Court of Exchequer, or other Courts, and levied upon

When Fines set on a Parish for not repairing their High-ways are levied on some particular Inhabitants, how they shall be reimburſed.

upon some particular Inhabitants, no provision being made for making a Rate to reimburse them; it is enacted therefore by the Statute 3 and 4 of their Majesties Reigns, King *William* and Queen *Mary*, That no Fine, Issue, Penalty or Forfeiture shall for the future be returned into any of the said Courts, but shall be levied and paid into the Hands of the Surveyors of such Parish or Place to be applied towards the repair of such High-ways; and if any Fine, Penalty or Forfeiture imposed on any Parish or Place for not repairing the High-ways, be hereafter levied on any one or more of the Inhabitants there, then such Inhabitant or Inhabitants may make their complaint to the Justices of the Peace at their special Sessions, and they or any two of them by Warrant under their Hands and Seals may cause a Rate to be made according to the form and manner (as is set down in the last Section of the sixth Chapter for the reimbursing Surveyors) for reimbursing such Inhabitant or Inhabitants the Monies levied on him or them, which Rate so made and confirmed by two Justices as aforesaid, shall be collected and levied by the Surveyor or Surveyors

3 & 4 W. & M. ch. 12.

Qu. how it shall be levied, and by whom, if by the chief Constable or Bailiff of the Hundred upon an Estreat made by the Clerk of the Peace as is directed by the Statute 2 & 3 P. & M. & 5 El. or how else, for here is no mention made by this Stat.

[illegible] of the High-ways of such Parish or Place so presented or indicted; and the Surveyor or Surveyors within a month next after the making and confirming the Rate, must pay unto the Inhabitant or Inhabitants, such Mony so levied on him or them as aforesaid.

Justices of Assize and Oyer and Terminer and Justices of the Peace in the Sessions and Stewards of Leets and Law-days, may hear and determine Offences against the Statute 18 *Eliz.* and the Surveyors who are to levy the Forfeitures on that Statute, and the Constables or Churchwardens (who in default of the Surveyors are to levy the same) are to yield such account appointed in 2 and 3 P. and *M. chap.* 8. and 5 *El. chap.* 13.

18 El. ch. 10. St. at large f. 610. Pult. J.P. 69. Keb. St. f. 860. sect. 9. Wing. High-ways sect. 23

All defects of Repairs of Cawseys, Pavements, High-ways or Bridges shall be presented in the County only where such Cawseys, Pavements, High-ways or Bridges do lie, and not elsewhere, and that no such Presentment or Indictment shall be removed by *Certiorari*, or otherwise, out of the said County, till such Indictment or Presentment be traversed, and Judgment thereupon given.

22 Car. 2. ch. 12. Keb. St. f. 1394. sect. 4. Wing. Ibid. sect. 33.

And

3 & 4 W. & M. ch. 12.

And no Presentment, Indictment or Order made by virtue of the Statute 3 and 4 of their Majesties Reigns, King *William* and Queen *Mary*, is to be removed by *Certiorari* out of the County into any other Court for any matter concerning Highways, Causeys, Pavements and Bridges mentioned in the said Act, but the same to be determined in the County where the same do lie, and not elsewhere.

3 & 4 W. & M. ch. 12.

And more by the Statute also of the said 3 and 4 Years of their said Majesties Reigns, King *William* and Queen *Mary*, it is enacted, That the Justices of the Peace of every County at their respective Divisions shall hold Special Sessions once every four months, and summon all the Surveyors of the High-ways within that Division to come before them, and then shall give them charge to do their Duty, and declare to them what they are obliged to do by virtue of that Statute, or any further Act; and then the Surveyors are to make a presentment to the Justices upon Oath of the state and condition of the High-ways within their respective Parishes, Towns, Villages, Hamlets, Precincts or Tythings for which they are Surveyors, and

Special Sessions to be held every four months.

The Surveyors to present upon Oath.

hat Offences or Neglects any are
lty of contrary to the meaning of
e Statutes made concerning High-
ys; and before they go out of their
fice, they muſt at ſome ſpecial Ses-
ons of the ſaid Juſtices give an ac-
ount upon Oath of all Money come
their Hands which ought to be im-
ployed in amending of the High-ways,
nd how the ſame is diſpoſed of; and
any Money be remaining in any Sur-
eyors Hands, he ſhall deliver the ſame
o thoſe that ſhall ſucceed him for
he Year enſuing in the ſame Office
r that Place, and in caſe of failure to
orfeit double the value of what ſhall
e judged to be in his Hands by the
ſaid Juſtices, to be levied and diſpoſed
of in the ſame manner as the Statute
directs in caſe where one refuſeth to
be Surveyor after he is ſerved with a
Warrant of Notice, or neglects the
Office, for which ſee before, *Sect.* 2.
And now generally all Preſentments
about High-ways, and Offences con-
cerning the ſame, are to be made up-
on Oath by the Surveyors before the
Juſtices of Peace at their ſpecial Ses-
ſions held for that purpoſe.

Surveyors to ac-
count upon Oath.

CHAP.

CHAP. VIII.

How Lands given for the maintenance of Cawseys, High-ways, Pavements and Bridges are to be [illegible] and how Assessments are to be [illegible] and gathered for repairing High-ways, and of such as make [illegible] and oppose such persons [illegible] are imployed in the Execution [illegible] the Statutes made for amendment of High-ways, and also concerning Suits that shall be brought about [illegible] same.

22 Car. 2. ch. 12. Keb. Stat. at large printed 1684. f. 1394. sect. 2. Wingate High-ways, sect. 31.

TRustees of Lands given for maintenance of Cawseys, Pavements, High-ways and Bridges, shall let them to farm at the most improved yearly Rent without Fine; and the Justices of Peace in their open Sessions, may order the Improvement and Imployment thereof (other than of such Lands as have been given to the uses aforesaid to any Colledge or Hall in either of the Universities that have Visitors of their own) according to the Will of the Donor, if they find that the Persons intrusted have been negligent, or faulty in the performance of their Trust.

Where

Where the Justices of the Peace of any County, City, Borough or other place, or the major-part of them at their general or quarter Sessions, shall be fully satisfied that the common High-ways, Cawseys, Bridges, Streets and Pavements within their respective Jurisdictions within any Parish, Township, Hamlet or other place there, cannot without the help of the Statute of 3 and 4 of their Majesties Reigns, King *William* and Queen *Mary*, be sufficiently amended, repaired, paved, cleansed and supported, then in all such Cases one or more Assessment or Assessments upon all and every the Inhabitants, Owners and Occupiers of Lands, Houses, Tenements and Hereditaments, or any personal Estate usually ratable to the Poor, within any such Parish, Township, Hamlet or other place, may be made, levied, collected and allowed by such person and persons, and in such manner as the said Justices by their Order at such Sessions shall direct and appoint in that behalf, and the Mony thereby raised shall be imployed and accounted for according to the Orders and Directions of the said Justices, for and towards the amending and repairing, paving,

3 & 4 W. & M. ch. 12.

Assessments when and how to be made.

paving, cleansing and supporting su
High-ways, Cawseys, Streets, Pa
ments and Bridges, from time to ti
as need shall require, and the said A
sessment shall be levied by distress a
sale of the Goods of every Person
assessed (not paving the same within
days after demand) rendring the ov
plus to the Owner or Owners (necess
Charges of making and selling su
distress, being first deducted) and su
Assessment in any one Year is not
exceed six pence in the pound of t
yearly value of Lands, Houses, Te
ments and Hereditaments, nor abo
six pence for every twenty pounds
personal Estate; and such Order
the greater number of the Justices
Peace shall make at their general qu
ter Sessions concerning Persons ag
ved shall be conclusive and bind
said Parties.

Quære who must make the distress, for the Statute names no Officer, but this Clause I conceive hath reference to the preceeding Clause and it must be done by such person or persons as the Justices shall order at their general quarter Sessions.

22 Car. 2. ch. 12. Keb Stat. f. 1394. sect. 2. Wingate High-way, sect. 32

If any person or persons shall re
or make forceable opposition ag
any person or persons imployed in
due Execution of the Acts of Par
ment of 2 and 3 *P.* and *M.* and
and 18 *Eliz.* or 22 *Car.* 2. made
the amendment of High-ways,
shall make any rescue of any Ca
or Goods distrained by virtue th

2 & 3 P. & M. ch. 8. 5 El. ch. 13. 18 El. ch. 10.

f, every perſon being convicted there-
f by the Oath of one credible Wit-
eſs before any Juſtice of the Peace of
he place or diviſion, or by the view of
he Juſtice himſelf, ſhall for every ſuch
Offence forfeit forty ſhillings, and for
on-payment within ſeven days after
otice of Conviction, any Juſtice of
he Peace reſiding near the place where
uch oppoſition or reſcue ſhall be made,
ay commit the Offender to the
Common Gaol of the County where
ſuch Offence was committed, there to
emain till payment of the Forfeiture
e made to the Surveyors of the High-
ways for the Pariſh where the Offence
was committed, to be imployed for
he amendment of the High-ways of
he ſame Pariſh.

Actions brought againſt any Perſon 22 Car. 2. ch. 12. Keb Stat. at large printed 1684. f. 1394 ſect. 3. Winſ gate High-ways 4 ſect. 33.
r perſons for any thing done by
means of the Act of 22 *Car.* 2. for
epairing of the High-ways, ſhall be
id in the proper County where the
act was done and not elſewhere,
nd the Defendants may plead the ge-
eral Iſſue, and give the ſpecial Mat-
r in Evidence; and if there be a
Verdict for the Defendant, or the
laintiff be non-ſuited, or diſcontinue
is Action, the Defendant ſhall reco-

ver his treble Costs sustained by reason of such Action or Suit.

3 & 4 W. & M. chap. 12.

And if any Action or Suit shall be commenced or prosecuted against any person or persons, authorized to put the Act (of 3 and 4 of their Majesties Reigns, King *William* and Queen *Mary*, made for repairing High-ways) in Execution, the Defendant may plead the general Issue, and give the special Matter in Evidence, and if the Plaintiff be non-suited, or forbear farther prosecution, or discontinue his Action, or a Verdict pass against him or her, the Defendant or Defendants shall recover double Costs for which he and they shall have the like Remedy, as in Cases where Costs by Law are given to Defendants.

CHA

CHAP. IX.

The Surveyors Duty about travelling Waggons, Wains, Carts or Carriages, with an account when and by whom, and where the Prices for Goods carried by Waggoners, and other Carriers are to be assessed and rated, and the Penalty for taking above such Rates.

NO travelling Waggon, Wain, Cart or Carriage wherein any Burthens, Goods or Wares are or shall be carried (other than such Carts and Carriages as are imployed about Husbandry, and manuring of Lands, and in the carrying of Hay, Straw, Corn unthresht, Coal, Chalk, Timber for Shipping, Materials for Building, Stones of all sorts, or such Ammunition or Artillery which shall be for their Majesties Service) shall at any one time travel, or be drawn, or go in any common or publick High-way or Road, with above five Horse-Beasts at length, and if any shall draw with a greater number of Horses or Oxen, they shall all draw in Pairs, that is to say, two a Breast for such numbers as

22 Car. 2. ch. 12. Keb. Stat. at large printed 1684. f. 1395. sect. 6, 7. Dalt. J. P. f. 106. Wing. High-ways, sect. 35.

they shall use, except one Horse; and every Owner of any Waggon, Cart, Carriage, Horse, Beasts or Oxen offending therein, shall for every Offence forfeit forty shillings, one third part to the Surveyors of the High-ways of the Town, Village or Hamlet where the Offences shall be committed, one other third part to the Overseers of the Poor of the Parish where the Offences shall be committed, for the use of the Poor of the said Parish, and the other third part to him that shall discover the same, to be imposed on such Offender by any Justice of the Peace of the Place or Division where such Offence is committed, upon the Conviction of the Offender, by the Oath of one credible Witness, or upon the Justices own view, and to be levied by the High-Constable or other Officer of such Place or Division by Warrant under the Hand and Seal of such Justice of the Peace, upon the Goods and Chattels of such person so offending (rendring the overplus to the Owner thereof,) all necessary Charges in levying the same being first deducted.

Penalty for offending, Wing. Highways, sect. 36.

Penalty how to be disposed.

Penalty by whom to be levied.

And

And every Surveyor of the High-ways wilfully ſuffering any Waggon, Carts to paſs through his reſpective limits, with any more Horſes, or other Cattel, or in other manner than aforeſaid, upon complaint thereof made to any Juſtice of the Peace of the Place or Diviſion where ſuch neglect is, and conviction of the Party, by the Oath of one credible Witneſs, or upon the view of the Juſtice himſelf, ſhall incur ſuch Fine as the ſame Juſtice ſhall think fit to impoſe, not exceeding forty ſhillings, to be levied by the High-Conſtable or other Officers, as aforeſaid; and to be imployed for the amending the High-ways of the Pariſh or Place, where ſuch neglect ſhall be found, as the ſaid Juſtice or Juſtices ſhall appoint for the doing thereof.

22 Car. 2. ch. 12. Keb Stat. at large printed 1684. f. 1394. ſect. 1. Wingate High-ways, ſect. 30.

To prevent the Abuſe (occaſioned by the Combination of Waggoners and other Carriers) in raiſing the Prices of Carriage of Goods in many Places; it is enacted by the Statute of 3 and 4 of their Majeſties Reigns, King *William* and Queen *Mary*, That the Juſtices of the Peace of every County, and other Place, within the Realm of *England*, or Dominon of *Wales*, at their reſpective Quarter or General-

3 & 4 W. & M. ch. 12.

Prices of Land-Carriage for Goods to be ſet by the Juſtices of Peace.

Seſſions after *Eaſter*-day yearly, to aſſeſs and rate the Prices of Land-Carriage whatſoever of Goods to be brought into any place or places within their reſpective Limits and Juriſdictions, by any common Waggoner or Carrier; and to certify the ſaid Rates to the ſeveral Mayors and other chief Officers of each reſpective Market-Town within the ſaid Limits and Juriſdictions to be hung up in ſome publick place in every ſuch Market-Town, that People may reſort to it for their Information; and no common Waggoner or Carrier is to take above ſuch Prices ſo ſet, upon pain to forfeit for every Offence five pounds, to be levied by diſtreſs and ſale of his and their Goods by Warrant of any two Juſtices of the Peace, where ſuch Waggoner or Carrier ſhall reſide, rendring the overplus of the value of the Goods ſo diſtrained to the Owner or Owners thereof (the neceſſary Charges of making and ſelling ſuch diſtreſs, being firſt deducted) and the Forfeiture to the uſe of the Party grieved.

Qu. who ſhall levy by diſtreſs, for no Officer is named.

CHAP.

CHAP. X.

Of Nuſances in publick and private High-ways, how removeable and puniſhable, and where an Action upon the Caſe lies for a Nuſance, and where not.

NUſance comes from the French word *Nuire* (*id eſt*) *Nocere* to hurt or annoy. Blounts Law Dictionary verb. Nuſance.

By the Statute of 3 and 4 of King *William* and Queen *Mary*, it is enacted, That no perſon or perſons whatever ſhall lay in any High-way, not being twenty Foot broad, any Stone, Timber, Straw, Dung, or other Matter, whereby the ſame ſhall be any ways obſtructed or annoyed, on pain to forfeit for every ſuch Offence the ſum of five ſhillings, to be levied on his or their Goods and Chattels by diſtreſs and ſale of them, by Warrant under the Hand and Seal of two or more Juſtices of the Peace of the ſame Diviſion, or in default thereof any neighbouring Juſtices of the Peace for the ſaid County, upon information of any one credible Witneſs, upon Oath, the one moiety of which ſaid For- 3 & 4 W. & M. ch. 12.

Qu. If the High-way be above 20 Foot broad, whether the laying ſuch things in the way be puniſhable by this Statute.

Qu. who ſhall levy for no Officer is named by the Act

Forfeiture ſhall be to the Informe For
and the other moiety for and towa on
the Repairs of the High-ways of t ade,
ſame Pariſh, rendring the overpl s ar
if any be, to the party or parties d not
ſtrained upon; the Charges of the d wine
ſtreſs and ſale being firſt deducte ano
And if any Timber, Stone, Hi igh-
Straw, Stubble, or other Matter for m Pe
king of Dung, or on any other preten ſe
whatſoever, ſhall be laid in ſuch High t h
way, as aforeſaid, whereby the ſame ſh d t
be any ways obſtructed or annoye oid
the Owners or Poſſeſſors of the Lan s if
next adjoyning to the ſame, ſhall cl l mi
the ſaid Way, by removing ſu igh
things, and take and diſpoſe of t r c
ſame to his and their own uſe, and wir
ſuch Owner or Occupier neglect to r or t
move ſuch Nuſances, or to cleanſe s co
ſcour their Ditches, Gutters and Drai o a
adjoyning to the ſaid High-ways, ath
to cauſe the Earth taken out there hat
to be carryed away, and lay ſufficie Tou
Trunks, Tunnels or Bridges whe Caſe
any Cart-ways are into the ſa mag
Grounds, for the ſpace of ten da ill i
after notice given to him, her or the arth
by the Surveyors, for every ſuch O oya
fence they ſhall forfeit five ſhillings thro
be levied and diſpoſed of in manne mag
aforeſaid. Fo

If the Offender lives in one Pariſh and the Offence is committed in another, qu. which Pariſh ſhall have the moiety for repairs.

Not being 20 foot broad.

If the High-way be 20 foot broad, qu. whether the Owners or Poſſeſſors of the Lands may then remove & diſpoſe of ſuch Annoyances, for it ſeems by the words of the Statute as if they could not.

Earth taken out of Ditches, Gutters and Drains to be carried away.

For a common Nuſance in a common High-way, as where a Ditch is made, or Pale erected croſs a Way, or Pits are digged therein, ſo that a Man cannot paſs, or dead Horſes, Beaſts, Swine, Dogs, or other Carrion or Annoyances are laid and thrown in the High-way, to the great diſturbance of the People paſſing that way, yet for theſe common Nuſances, a Man ſhall not have an Action upon the Caſe, and this the Law hath provided, for avoiding the multiplicity of Suits; for if one Man might have an Action all might have the like, and then one might be puniſhed an hundred times for one Offence; And *nemo debet bis puniri pro uno delicto*. So the Law for theſe common Nuſances (which is *commune Nocumentum*, and equal to all their Majeſties Liege People) hath provided an apt Remedy, and that is by preſentment in the Leet, Tourn or Seſſions, *&c.* But in theſe Caſes if any Man have a particular damage by them, as if he and his Horſe fall into the Ditch or Pits, or his Horſe ſtartle at the Carrion, or other Annoyance thrown into the Street, and throws him, whereby he receives damage or harm, for this particular damage

2 E. 4. f. 9. a. pl. 21. 5 E. 4. f. 2 b. pl. 24. 27 H. 8. f. 27. a. pl. 10. Tr. 41 El. B. R. Fineux and Hoſedens Caſes, Cro. El. f. 664. pl. 13. Co. Rep. 5. lib. f. 72. a. & 9 lib. f. 113. a. Co. Lit. f. 56. a. Rolls Caſes 1 p. f. 88. Kitch. Court Leet printed 1581 p. 49. a. 50. a.

Co. Rep. 4 lib. 43. a.

Vaugh. Rep. f. 335, 341.

mage which is not common to oth
he ſhall have an Action upon t
Caſe.

Vaugh. Rep. f. 340 The Common Law epitomized, printed 1679. p. 53.

But if a Man have a particular d
mage by a foundrous Way, he is g
nerally without remedy, and the r
ſon is becauſe a foundrous Way or c
cayed Way, or the like is common
to be repaired by ſome Pariſh, Tow
ſhip, Vill, Hamlet or County who a
not Corporate, and therefore no Ac
on lies againſt them, for a particu
damage, but their neglects are to b
preſented, and they puniſhed by Fi
to the King; but if any particul
Perſon, or Body Politick be charg
able with the Repairs, in ſuch Caſe
may have an Action againſt ſuch Pe
ſon or Body Politick (who ought
repair) for his damages, becauſe
can bring his Action againſt the
but where there is no perſon cert
againſt whom to bring his Action,
is as if a Man be damaged by one th
cannot be found.

F. N. B. f. 184. & 407 Kitch. printed 1581. p. 49. a. 50. a. b. 1 R. 3. f. 1. a. Mich. 8 El. C. B. Leon. Rep. 3 p. f. 23, Ca. 31.

If a private Way be ſtopped
ſtraightned or other injuries done the
to the diſturbance of him or the
that have right to paſs there, and ha
a Freehold in the Eſtate for which h
claims ſuch right, he may in ſuch ca
have

ve an Aſſize of Nuſance, *Quare iuſte obſtruxit, vel arctavit, vel ſuſpavit quandam viam, &c.* for ndring or ſtraightning his way, *&c.* nd if he be no Freeholder that is ſturbed thus of his way, then he ay have an Action upon the Caſe; ut Juſtice *Pollard* ſaid there is a di- erſity, where the Way is wholly ſtop- ed, ſo that one cannot paſs, for there n Aſſize of Nuſance lies, and where he Way is ſtopped but in part, ſo hat one may paſs narrowly, for here an Action of the Caſe lies; ſo here is a diverſity when the Way is raightned in part, and when wholly topped, which all the Juſtices agreed; ot notwithſtanding this diverſity later judgments have over ruled this Opi- ion, for it hath been reſolved and adjudged upon conſideration had of he Books, that the Party may either bring an Aſſize, or an Action upon the Caſe at his Election, whether the Way be wholly ſtopped, or but in part; and ſo an Aſſize is now very rarely brought, but Actions upon the Caſe altogether.

And the reaſon why an Action lies for a Nuſance in a private Way, and not for a Nuſance in a publick Way,

2 H.4.11.22 H.6. f.15.a. 14 H.8. f. 31.b. pl. 8. Paſ. 8 El. Dyer f.250. b. pl.88. The Common Law epitomized p.52.

Paſ. 38 Eliz. B.R. Alſton and Pamphyns Caſe, Cro. El. f.466. pl. 22. 21 H.7. f.30.a.pl. 5. & Tr. 43 El. in Cam. Scacear. in Cantrel & Church Caſe, Cro.El.f.845 pl. 33.Tr.11 Jac. 1 B. R. Collecote & Tucker, Rolls Caſes 1 p. f. 104. L. 30, 35. Mich. 8 Jac.1.Pollard & Caſy, Bolſtr.Rep. 1 part f. 47. 1 R.3.f.1.a. Tr. 41 El.B.R.Cro.El. f.664. pl.14. Co. Lit. f. 56.a. Shep.

Wards Action of the Caſe, chap. 5. ſect. 5. p. 252.

Way, is becauſe that a private Nuſa is not inquirable in the Leet or Tou and it was ſaid in the Caſe betw *Weſtbury* and *Powel*, that it had b adjudged, That where the Inhabit of *Southwark* had by Cuſtom a W tring-place for their Cattel, which w ſtopped up by *Powel*, that in t Caſe any of the Inhabitants of *Sou wark* might have an Action, otherwiſe they ſhould be without re medy, becauſe ſuch a Nuſance is n preſentable in the Leet or Tourn, note the diverſity.

5 E. 4. f. 2. b. pl. 24. Br. Action ſur le Caſe 93. and Nuſance 29. Kitchin Court Leet, &c. printed 1581. p. 49. a. b.

If an High-way be not repaired, that I am damaged by myring m Horſe, I ſhall not have an Acti on the Caſe againſt him that ough to repair it, for this is an Action p pular, and in this Caſe no ſingle Pe ſon ſhall have an Action, but it ſh be preſented in the Leet or Tourn, & and there puniſhed.

Adjudged M. 15 Jac. 1. B. R. in Fowler and Sanders Caſe, Cro. Jac. f. 446. pl. 25. Rolls Caſes 1 p. f. 88. n. 15, 20.

If a Man lay Clogs of Wood he and there in the High-way, and ſuff them to lie there by the ſpace of tw months or ſuch other time, althou a Man with great care, and in t day-time may paſs ſafely, yet if o be riding in the Evening in the Wa not perceiving the Clogs, and h

Hor

horſe ſtumbles upon them, by which he falls and throws his Rider, whereby he is wounded or bruiſed, or otherwiſe damnified, here an Action upon the Caſe lies againſt him that laid the Clogs in the way, although it be before a Mans Door in a Town, Gate or Street, and that the People time out of mind have uſed to lay Clogs before their Doors in the Town or Street for their Fewel or Firing, for this is a common Nuſance, and none can preſcribe to a Nuſance.

But if *A.* being ſeiſed of a Waſte adjoyning to an High-way, dig a Pit in the Waſte, within thirty Foot of the ſaid Way, and the Mare of *B.* eſcapes into the ſaid Waſte, and falls into the Pit and dies, here *B.* ſhall not have an Action againſt *A.* becauſe the making of the Pit in the Waſte and not in the High-way, was no wrong to *B.* for it was his own fault that his Mare eſcaped into the Waſte; but it is otherwiſe if a Pit or Ditch be digged in the High-way, for there an Action lies if one falls in, or if a Mans Servant falls into ſuch a Ditch and is lamed ſo that his Maſter for a long time doth loſe his Service, in ſuch Caſe the Maſter may have an Action

Paſ. 5 Jac. 1. B. R. inter Blyth and Topham adjudged, Cro. Jac. f. 158. pl. 11. Rolls Caſes 1 p. f. 88. n. 30.

Hill. 12 Jac. 1 B. R. in Everard and Hopkins Caſe per Cur. Rolls Caſes 1 p. f. 88. n. 35.

Action upon the Case for the loss his Service against him that digged Ditch.

Pal. 8 Car. 1. B.R. Cro. Car. f. 185, 185. pl. 3. James & Haywards Case, Jones Rep. f. 221, 222, 223. pl. 1.

If a Gate be set and hung cross High-way, where none hath been ancient time, though it be fixed and that it may be opened and shut pleasure, so that their Majesties Subjects may pass and repass, yet this a Nusance, for it is not so free easie a passage as if no such Gate been, for Women and old Men more troubled with opening of Gates than they should be, if there were none; and though the usual course 33 H. 6. f. 26. Finch Law, Lib. 3. ch. 2. to redress a Nusance by Indictment yet every person may remove the Nusance and pull it down, and so it held by *Hide*, *Jones* and *Whitlock* Justices, *6 Car.* 1. but Judge *Croke* was of a contrary Opinion, and said If it were a Nusance, there should be no Gates, for there cannot be a Prescription to a Nusance, and the multitude of Gates in several Ways, proves that it never was accounted to be a Nusance: But to this *Jones* said, That for ancient Gates in High-ways, it shall be intended they were by Licence from the King, and upon an *Ad quod dampnum* sued out of Chancery, but

Crook

book conceived that could not be for stopping, &c. but notwithstanding this Opinion it was agreed to be a Nuisance, and that a Man might justifie to pull down such a Gate.

If the Owner of the Land stop my Way, and lease it to another, who doth not open it, but continues the Nuisance, I may in this Case have an Action upon the Case against the Lessee: and so if a Nuisance be erected in my time, and I devise the Land, if it be still continued, then the Devisee may have an Action upon the Case, for the Continuance is a new Nuisance.

Tr. 13 Jac. 1. B. R. Bolds Case, Sheppards Actions upon the Case, ch. 5. sect. 1. The Common Law Epitom. p. 52. Cro. Jac. f. 201. pl. 16. Sheppards Actions upon the Case, ch. 5. sect. 1

If one have a Way over another Ground, and by rooting of Cart-wheels, the Way is so digged and worned that they cannot so well use it formerly; in this Case the party having the Way, cannot justifie to fill up the Cart-roots, and dig a Trench to let out the Water as it was held in *Dy* and *Dunstans* Case; and it being demanded what remedy he should have, Justice *Shute* made Answer and said, If he went that Way before in his Boots, let him now pluck on his Boots.

Mich. 18, 19 Eliz. B. R. in Dike and Dunstans Case, Godbolts Rep 165 53. ca. 65.

CHAP. XI.

An Abridgement of the Statute 22 H. 8. chap. 5. about the Reparation of Bridges, with some Exposition and Cases in Law relating thereunto.

22 H. 8. ch. 5. Keb. St. at large printed 1684. f. 384, 385. sect. 1, 2, 3. Poult. Abst. of the Penal Stat. Tit. Just. of Peace, sect. 70. Lamb. p. 474. Dalt. J. P. f. 44, 45. Compl. J. p. 45, 46. Bond p. 54, 55. Wingate Bridges sect. 3.

FOUR Justices of the Peace (if not under that number) whereof one to be of the *Quorum*, in every Shire, Franchise, City or Borough, have power in the general Sessions of the Peace, to enquire, hear and determine of all manner of Annoyances of Bridges broken in the High-ways and of the High-ways next adjoining to either end of the said Bridge by the space of three Hundred Foot, and shall make Process and Pains upon every Presentment before them for the Reformation of the same, against such as own to be charged with the Repairs thereof, as they think convenient for the speedy amendment thereof. And

Co. 2 Inst. f. 702. Poult. Bridges 1. Wingate Bridges f. 4.

when it cannot be known what Hundred, Riding, Wapentake, City, Town or Parish, nor what Person, or Body Politick ought to repair a Bridge or Way at the end of it, then if the said

without a City or Town Corpo-
e, it muſt be repaired by the Shire
Riding within which it is ſituate,
if it happen to be part in one
re, Riding, City or Town Cor-
rate, and part in another, then the
habitants of the ſeveral places ſhall re-
r their ſeveral parts that lie within
ir Precincts.

And in every Caſe where it cannot known and proved, what Perſons, nds, Tenements or Bodies Politick n or make and repair the ſame, four Juſtices of the Peace (one to of the *Quorum*) within the Limits their ſeveral Commiſſions and Au-rities have power to call before n the Conſtables, or two able Men every Town and Pariſh within the , Riding, City or Town Corpo- and with the aſſent of the ſaid ſtables or Inhabitants may make Tax of ſuch a reaſonable Sum of y upon every Inhabitant in any City, Town or Pariſh within the lits of their Commiſſions as they think fit, and the Names and s of every particular Perſon ſo by n taxed, being written in a Roll ited, the Juſtices ſhall appoint two lectors for every Hundred, who re-

22 H. 8. ch. 5. Co. Ibid. f. 703. Keb. Ibid. ſect. 4, 5, 8. Poult. ubi ſupra Bridges 2. Wingat: Bridges, ſect. 5.

So that by this Act the Juſtices cannot make the Tax without the Conſtable or two Inhabitants, nor they without the Juſtices, Co. Inſt. 2 p. f 704.

Every Inhabitant is to be taxed by himſelf, and not a groſs Sum upon a Conſtable, &c. Co. ubi ſupra, Poult. Bridges 3, 4.

receiving one part of the Roll so
dented under the Hands and Seals
the said Justices, by virtue thereof t
are to collect and receive the Mo
therein mentioned, and to distr
upon such as refuse, and to sell
Distress, and retain and keep all
Mony taxed, and the residue (if
Distress be better) to deliver to
Owner thereof; and the Collectors
to pay the Monies into the Hands
the Surveyors appointed by the
Justices for that purpose, who are
see such decayed Bridges repaired
amended, which Collectors and S
veyors and their Executors and Ad
nistrators are to render an Accoun
the said Justices, upon pain of
prisonment, without Bail, till
make a true Account, upon which
count the Justices are to allow t
such reasonable Costs and Charge
they think convenient; and the
stices upon presentment of Annoya
against such Persons as own to
chargeable to the making and am
ing of such Bridges, may make
Process into every Shire within
Realm against such Persons; and
Sheriffs and Bailiffs of Liberties
Franchises are to obey the same, u

Wingate Bridges [illegible] 8.

Poult. Bridges 5. Wingate Bridges sect. 6.

in to make such Fine as the said Ju-
ces think fit.

This Act shall not extend to the
berties of the five Ports or Members
the same, save only that the War-
n, Mayors and Bailiffs elected, and
rates of the same Ports and every
them, have such Power and Au-
rity to enquire, hear and determine
manner of common Annoyances
Bridges within the same Ports and
mbers as the Justices do in their
ies and Liberties out of the same
rts by virtue of this Act.

22 H. 8. ch. 5 Keb. St. at large printed 1684. f. 385. sect. 6, 7. Poult. Bridges 6. Wing. Bridges, sect. 7.

A Bridge in Latin is called *Pons*, *a*
ndendo, *Quia tanquam in Aere pendet*,
h my Lord *Cook*, Because it hangs as
were in the Air; but some derive it
Pono, to place or set, *Quia ad tran-*
ndem ponitur, Because it is set for
ing over: And the said Lord *Cook*
th, That *Pons significat omne quod*
er Aquas transimus, Every thing
t we may pass over the Water up-
, and *Pontage* is derived from *Pons*,
d signifies sometimes the Contri-
tion that is given for the main-
ance or re-edifying of Bridges, and
metimes the Toll paid for that pur-
se by those that pass over Bridges:
d so it is mentioned in 39 *Eliz.*

Co. 2 Inst. f. 701. in Margin, & 700 in Margin.

Terms of the Law, and Blounts Law Dictionary verb. Pontage, Co. Rep. 8. lib. f. 47. a. 3 E. 3. Ass. 445. F. N. B. D. 227.

27 Ass. pl. 28. 43 Ass. pl. 37. Co. 2 Inst. f. 701.

chap. 24. And before the making this Statute 22 *H.* 8. Presentments repair of Bridges might be by Common Law, before the Justices the Kings Bench, or before Justices Eyre, or Commissioners of Oyer Terminer, and in the Tourn or Leet.

10 E. 3. 28. Co. 13 Rep. f. 33. & Co. 2 Inst. f. 700, 701. Pasch. 12 Jac. 1. Poph. Rep. f. 192 Tr. 2 Car. 1. B. R. Tr. 10 Car. 1. in an Information against the Inhabitants of Middlesex for Longford Bridge, agreed by the Court Rolls Case 1 p. f. 368. Com. 186. b. 187.

Of common Right all the Coun shall be chargeable to the Reparati of a Bridge (where no other is bou by the Law to repair it) because i common Easement for the wh County; And so as to that Point Statute 22 *H.* 8. *chap.* 5. was but affirmance of the Common Law; those who have Lands on the one of a Bridge, or on the other, or both sides, are not bound of comm Right to repair the same.

14 E. 3. Berr 276. Co. Rep. 13. lib. f. 33.

But he who hath the Toll of Men, or Cattel which pass over Bridge or Cawley ought to repair same, for he hath the Toll to purpose; *Et qui sentit Commo sentire debet & onus*; Also a M may be bound to repair a Bridge, *tione tenuræ Terrarum sive Tenem torum*, &c. By reason of the Ten of his Lands: And if such a Per alien part of these Lands to one M and part of them to another,

Regist. f. 466. F. N. B. 235. b. Col 2 Inst. P. 700.

twe

ty Acres to one, and ten Acres another, and afterwards one of these is presented only, and found liable the Repairs of a Bridge, and is di-ined for the same; in this Case may have a special Writ *de onerando rata portione*, to be discharged for Rate according to his proportion; a particular Man cannot be bound Usage and Prescription, *viz.* That and all his Ancestors have repaired Bridge, if it be not in respect of Tenure of his Land, taking of Toll, or other Profits as aforesaid. But Body Politick or Corporate, Spiritual or Temporal, who are local, and ve a perpetual succession, may be charged by Usage and Prescription, for ey may bind the Successors: And if Bishop, Prior, Abbot, *&c.* And eir Predecessors, time out of mind, ave repaired a Bridge out of Alms Charity, or Good-will, this shall nd them to repair it; but if it hath en but for once or twice within emory, it bindeth not, and yet it is vidence against them till they prove e contrary.

For the Act of the Ancestor cannot charge the Heir without Profit, 21 E.4.f.38.b. Co.2 Inst.f.700 & 13 Rep. f.33. 27 Ass pl.8.Crom.187 49 E.3.f.5.b.21 E. 4.f.38.b.Dalt.J.P. f. 45.

10 E.3. f. 28, 29. 27 Ass.pl.8. Co.2 Inst. f.700. Co.13 lib.Rep. f.33.

If a Man make a Bridge for the good of all their Majesties Subjects, he is not bound to repair it by the

8 H.7.f.5.b. Co.2 Inst. f. 701.

Common Law; but either *Ratione Tenuræ* or *Præscriptionis*; and no one can be compelled to make new Bridges where never any were before, but by Act of Parliament. But if a Man build a Mill for his own singular Profit, and make a new Cut for the Water to come to it, and make a new Bridge over it, and the People use to go over it as over a common Bridge; this Bridge ought to be repaired by him who hath the Mill, and not the County, because he built it for his own Benefit. 8 *E.* 3. *B. R.* Adjudged for *Bow* Bridge and *Channel*-Bridge against the Prior of *Stratford*, and it is now repaired by the City of *London* who hath the Mill.

Rolls Ca. 1 p. 368.

This Act of 22 *H.* 8. extends only to common Bridges in the Kings High-ways, which are broken to the damage of their Majesties liege People, and not to private Bridges to Mills, or the like, and therefore the Indictment upon the Statute saith, *Quod pons publicus communis situs in alta Regia Via super flumen seu cursum Aquæ, &c.* a common publick Bridge set in the Kings High-way over a River or Water or sewer, *&c.* And for the better Warrant of the Justices when it cannot be

22 H. 8. ch. 5 Co. Lit. f. 701.

Co. ibid. f. 703.

prove

[illegible]ved who own to repair such Bridges, [illegible] hath been gravely advised (saith [illegible] Lord *Cook*) That the Justices [illegible]ake inquiry by the Grand Inquest of [illegible] Body of the County, at the Ge[illegible]al Quarter-Sessions, who ought to [illegible]pair the Bridges, and if that can[illegible]ot appear upon any proof made, [illegible]en to find that the Bridge is in de[illegible]ay, *&c.* And to conclude their Pre[illegible]ntment, *Et ulterius Juratores præ[illegible]dicti præsentant quod prorsus nescitur [illegible] personæ quæ Terræ sive Tene[illegible]menta, aut Corpora Politica eundem [illegible]ntem, aut aliquam inde parcellam [illegible] Jure aut antiqua consuetudine re[illegible]ere debent, seu consueverunt,* And the said Jurors do farther present, that it cannot be known what Persons, Lands or Tenements, or Body Poli[illegible]tick of Right, or by ancient Custom ought to repair the said Bridge, or any part of it, or have been accustom[illegible]d to do it; and this will be a safe way for the four Justices, or more, to proceed herein. And in a Franchise, City or Borough, where there are not four Justices of the Peace, and one of them of the *Quorum*, and where they keep not General Sessions, the Justices of the Peace for the County in such

How the Grand Jury are to conclude their Presentments for decayed Bridges, Cap. [illegible] § 70.

[illegible]

case are to inquire upon this Statute. But if the Franchise, City or Borough be a County of it-self, then the Justices of the Peace of the County have nothing to do with it, but such decay of Bridges there must be remedied according to Common Law, as they were before the making of this Act of Parliament.

What shall be accounted an Inhabitant said Habitant contributory to the charge of the Repair of decayed Bridges.

If a Man dwell in an House out of the County, Riding, City or Town Corporate where a decayed Bridge is, yet if he have Lands or Tenements in his own possession and manurance in that County, Riding, City or Town Corporate where the Bridge is; he is an Inhabitant in both places within this Statute, for *habitatio dicitur ab habendo, quia quis propriis manibus, & sumptibus possidet & habet, ibi habitare dicitur*; So that a Man is said to inhabit where he keeps Lands in his own Manurance and Possession, aforesaid; And so if a Man dwell in a Foregin Shire, Riding, City or Town Corporate, and keepeth House and Servants in another Shire, Riding, City or Town Corporate, he is an Inhabitant in each of them also within this Statute; but though Servants are properly Inhabitants where they

So resolved in Jeffries Case, Mic. 31 & 32 El. B. R. Co. Rep. 5. lib. f. 66, 57.

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Live, yet they are not such Inhabitants as this Statute extends to them, but only such as be Housholders; and to every Corporation and Body Politick residing in any County, Riding, City or Town Corporate, or having Lands or Tenements in any Shire, Riding, City or Town Corporate, *quæ propriis manibus & sumptibus possident & habent*, are said to be Inhabitants within the purview of this Statute; and an Infant likewise that hath House and Lands by descent or purchase is liable to this publick Charge, and so is the Husband of a Feme-Covert; and by this word (every Inhabitant) all Priviledges of Exemptions, or Discharges whatsoever from Contribution, for the Reparation of decayed Bridges (if any were) are taken away, although the Exemption were by Act of Parliament; so that it seems Ecclesiastical Persons who by former Laws are freed from Pontage are by this Statute made liable to contribute to the Charges of decay'd Bridges.

How and after what manner the Taxes are usually laid on for the repairs of decayed Bridges.

Although by this Statute of 22 *H.* 8. neither the Justices without the assistance of the Constable, or two absolute men of every Town or Parish, nor the Con-

Constables or Inhabitants without the Justices can make a Taxation, nor when the same Tax is made, can the same be set by the Justices in a gross Sum upon every Hundred, Parish and Town, but that every Inhabitant ought to be taxed singly by himself, and each one bear his own Burthen; and that indented Rolls in Parchment of every several Hundred, and of the Names and Sums of every particular Person so by them taxed, and sealed by the said Justices, ought to be given to the Collectors appointed for the Bridges for their Warrant to gather the said Tax by; yet notwithstanding (to free the Constables and Inhabitants from the trouble and charge of Attendance) the common course is to charge every Hundred and Constablery with a Sum in gross, and to give it in charge to the Chief Constables of every Hundred, who send their Warrants to the Petty-Constables to gather the same, by virtue of which Warrant the Inhabitants lay on their Assessment, and pay the Money to the Petty-Constables, who pay the same to the Chief-Constables, and they pay the Monies for their whole Hundred at the Sessions. And this

Co. 2 Inst. f. 702, 703.

course

course, though not warranted by the Statute, is submitted to, and never disputed, for *Communis Error facit jus.* Phillips Principles of Law, p. 18.

CHAP. XII.

An Abridgment of such Statutes as have been made for the paving and cleansing the Streets and Lanes in the Cities of London *and* Westminster, *and Suburbs and Liberties thereof, and Out-Parishes in the County of* Middlesex, *and the Borough of* Southwark.

BY the Statute of 24 *H.* 8. The Street-way between *Charing-Cross* and *Strand-Cross*, was to be sufficiently paved at the Charges of the Owners of the Lands or Tenements seized thereof in Fee-simple, Fee-tail, or for Term of Life, along from his or their Lands or Tenements adjoyning to the said Ways unto the midst of the same, and the same to be maintained by such Owners, their Heirs and Successors, with several Clauses for Pains and Forfeitures upon defaults and

24 H. 8. ch. 11. Rastal paving 1. Stat. at large printed 1587. f. 624, 625. Keb. Stat. printed 1684. f. 410.

and neglects, as appears in the Statute at large, which are now altered, and the Rules in the Statute of the second Year of their Majesties Reigns, King *William* and Queen *Mary* (mentioned afterwards in this Chapter) is now to be observed.

25 H. 8. ch. 8. Paving 2. Rastal, St. at large printed 1587. f. 638. Keb. St. printed 1684. 415.

By the Statute of 25 *H.* 8. it is enacted, That *Holburn* from the Bridge to the Bars shall be paved on both sides with paving Stone, at the Charge of the Tenants in Fee-simple, Fee-tail, or for Life, of the Lands thereunto adjoyning, their Heirs and Successors, and they from time to time to maintain the same paved, and if the Lessees do it, they may defalk so much out of their Rent, if not otherwise agreed; with several Clauses in the Statute at large for Pains and Forfeitures for defaults, &c. But now

22 & 23 Car. 2. ch. 17.

by the Statute of 22 and 23 *Car.* 2. All power of cleansing the Streets, Lanes and Passages within the City of *London* and Liberties, and pitching and paving with the order and manner thereof is in the Mayor, Communalty and Citizens of the said City, to be managed, executed and done by such Commissioners, or any seven of them as they appoint under their Common Seal,

[illegible] as is shewed afterwards in this Chapter.

By the Statute of 32 *H.* 8. From *Algate* to *White-chappel* and from *Holborn-Bars* to *St. Giles*, and *Chancery-Lane*, *Grays-Inn-Lane*, *Fetter-Lane* and *Shoo-Lane* were to be paved by Tenants in Fee-simple, Fee-tail, and for Life, on both sides so far as their Lands and Tenements extend in length, to the middle of the Street, and they, their Heirs, Assigns and Successors to maintain the same, with several Clauses for Presentments, Forfeitures, *&c.* but now the sole Power is in the Lord Mayor, Communalty and Citizens, *&c.*

32 H. 8. ch. 17. Pa. 2 Rast. St. at large printed 1587. f. 816, 817. Keb. St. printed 1684. f. 512.

By the Statute of 34 and 35 *H.* 8. *White-Cross-Street*, *Cheswel-Street*, *Golding-Lane*, *Grub-Street*, *Goswel-Street*, *Long-Lane*, *St. Johns-Street*, *Smithfield-Bars*, *Water-Lane*, from *Temple-Bar* by *Clements-Inn*, and *New-Inn* to *Drury-Lane-end*, *Petty-France*, *Shore-Ditch* and *Foscue-Lane*, were to be paved by Tenants in Fee-simple, Fee-tail, for Life, or Years on both sides, and maintained in the same manner as is shewed above for *Algate*, *&c.* And several Clauses also in this Act, about Presentments, Forfeitures,

34, 35 H. 8. ch. 12 Paving Rast. 4. St. at large printed 1587. f. 947, 948, 949. & Keb. Stat. printed 1684. f. 569.

[illegible] *&c.* But now all Power [illegible] in the Lord Mayor, Communalty, [illegible] *&c.*

13 Eliz. c. 23. Paving 6. Rast. Stat. at large printed 1587. f. 551, 552. Keb. Stat. printed 1684. f. 844.

By the Statute of 13 *Eliz.* T[illegible] Way without *Aldgate* in the Subu[illegible] of *London*, and a Way leading fr[illegible] the *Old-Cage* to the North-end [illegible] *Nightingale-Lane*, and another W[illegible] between the said *Old-Cage* and *Cro[illegible] Mill* in the Parish of St. *Mary M[illegible] fellon* at *White-Chappel*, were to [illegible] paved with Stone, and continued [illegible] by Persons seized as aforesaid, in su[illegible] manner as aforeshewed, and seve[illegible] Clauses about Presentments and Fo[illegible] feitures also, and about carrying th[illegible] Waters from *Algate* to the Comm[illegible] shore at the East-end of *Hog-Lane*, &c. but now all Power is in the Lo[illegible] Mayor, *&c.* Then an Addition w[illegible] made to this Stat. in 23 *Eliz.* touchin[illegible] the paving a Street without *Alga[illegible]* leading to the Queens Store-house at th[illegible] *Minories* towards the Tower of *Lo[illegible] don*, and other places near thereunt[illegible] with provision about Scouring an[illegible] Cleansing the Ditch at *Hog-Lane*, an[illegible] several Clauses about Pains and Fo[illegible] feitures, but the Lord Mayor, *&c.* as [illegible] shewed before hath now all the Pow[illegible] in such things.

23 El. c. 52. Paving 6. Rast. Stat. at large printed 1587. f. 663, 664. Keb. Stat. printed 1684. f. 872.

By the Statute of 19 *Car.* Such Persons, or any seven or more of them, as shall be authorised and appointed from time to time by the Mayor of *London*, Aldermen and Commonalty of the said City in Common Council assembled, or the more part of them under their Common Seal, with the Surveyors or some or one of them within his or their Precinct respectively at their Meeting have power to order the making of any new Vaults, Drains and Sewers, or to cut into any already made, and for the altering, inlarging and amending, cleansing and scowring of any old Vaults, Sinks or Common Sewers, for the better effecting whereof the said Persons, or any seven or more of them, at their Meeting, may impose any reasonable Tax upon all Houses within the said City and Liberties thereof, in proportion to the benefit they shall receive thereby, for and towards the new making, altering, *&c.* and in default of payment, by Order and Warrant under their, or any seven of their Hands and Seals to levy the said Sums so assessed, by distress and sale of the Goods of the Party chargeable therewith, and refusing or neglecting to pay the same, rendring

19 Car. 2. ch. 3. sect. 20. Keb. Stat. printed 1684. f. 1333.

Making new Vaults, Drains and Sewers, &c.

Tax how to be imposed and laid on.

Qu. What Officer must take the distress, for here is none named.

rendring the overplus (if any be,) and that all other Commissioners whatsoever be altogether suspended to intermiddle in the Premisses within the said City and Liberties thereof, for the space of seven years; but by the Statute of 22 and 23 *Car.*2. *ch.*17. this Clause is made perpetual, *Keb. Stat. printed* 1684. *f.* 1433. *sect.* 1, 2, 3.

To whom the sole power for cleansing the Streets, Lanes, &c. and pitching and paving is given.

The sole power of cleansing the Streets, Lanes and Passages within the City of *London* and Liberties, and pitching and paving, with the order and manner thereof, and for making and cleansing Drains and Sewers by the

22 & 23 Car. 2. ch. 17. Keb. Stat. printed 1684. f. 1434. sect. 4,5,6.

Statute of 22 and 23 *Car.* 2. is declared to be in the Major, Commonalty and Citizens of the said City, to be mannaged, executed and done by such persons as by the said Mayor, Aldermen and Commons in Common Council assembled, shall be thereupon authorized and appointed, or by any seven or more of them (being of the Members of the said Court) and not other persons whatsoever; And

Paviers and Scavengers, &c. to observe the Commissioners Orders.

Paviers, Scavengers, Carters, Labourers and Lighter-men that shall be imployed about any of the said Works, are to observe and obey such Orders from time to time as the said Commissioners

or any ſeven or more of them ſhall appoint; and the perſons therein offending may be proceeded againſt, and thereof convicted by Indictment at the next Seſſions of the Peace held for the ſaid City and Liberties according to their Offence, unleſs they ſubmit to the cenſure of ſuch ſeven Commiſſioners or more, and pay ſuch Mult or Penalty as they ſhall impoſe for ſuch Offence, into the Chamber of the City of *London*, to be imployed towards the Works mentioned in the ſaid Act.

Power given to Commiſſioners to raiſe a Tax or Aſſeſſment, Keb. 8. ibid. ſect. 7.

And for the better enabling the Mayor, Commonalty and Citizens to defray the Charge in effecting and performing the Works mentioned in the Act, the Commiſſioners or any ſeven or more of them at their publick Meeting, have power to impoſe any reaſonable Tax or Aſſeſſment upon the ſeveral Wards and Precincts within the ſaid City and Liberties, and to direct their Warrants to the ſeveral Deputies and Common Council-Men of ſuch Wards, to rate and aſſeſs the ſaid Taxes and Aſſeſſments in manner following, and alſo to direct like Warrants to ſuch, and ſo many of the Scavengers within the

ſaid Wards, as they ſhall think fit, thereby requiring them to collect and levy the Monies ſo aſſeſſed, upon receipt whereof the ſaid Deputies and Common Council-Men are to make an Aſſeſsment and Diſtribution of the proportion charged upon their Wards, as well upon the Tenants and Occupiers of Houſes, Shops, or other Tenements or Hereditaments, as upon Owners or other intereſted of or in ſuch Houſes, Tofts of Ground unbuilt, and other Hereditaments, where of there ſhall be no Perſon Occupier, and a reaſonable proportion to be aſſeſſed on the Pariſh whoſe Church-yard ſhall be fronting and adjoyning to any of the Streets, Lanes or Paſſages to be paid by the Church-wardens thereof in behalf of the Pariſh; and the Deputies and Common Council-Men within twenty days after the receipt of their Warrant, are to return Duplicates in Writing of the Aſſeſsments with the Names of the Scavengers appointed to collect the ſame; and in default of aſſeſſing or returning Duplicates, the ſaid Commiſſioners or any ſeven of them may aſſeſs the ſaid Wards (where ſuch default ſhall be) in manner as aforeſaid, all which Sum

Duplicates of the Aſſeſsments and Scavengers Names to be returned, Keb. St. ibid. ſect. 8

to be rated and assessed in pursuance of the Act, are to be collected and levied by the Scavengers appointed to collect the same; and for default of payment by the space of six days after demand, they are to levy the same by distress and sale of Goods of the Parties refusing or neglecting to pay, rendring the overplus (if any be) besides reasonable Charges to the Parties so distrained; and the Scavengers are to pay all the Monies so to be collected into the Chamber of the City of *London*, and the Chamberlain is to keep Books of the receipt thereof, and no Mony to be paid out from thence, but by Order or Warrant under the Hands of the said Commissioners, or any seven of them, for the Uses in and by the Act appointed.

Scavengers to pay the Assessments when collected into the Chamber of London, Keb. Stat. ibid. sect. 9.

Where any Citizen is agrieved, or any Inhabitant, through the defect or decay of Pavements in any of the Streets, Lanes or Passages within the said City or Liberties thereof, for want of due cleansing, and being made known to the said Commissioners, or any seven or more of them at their publick Meeting, upon due proof made that such Grievance is unreformed, the persons complaining shall

Grievances through defect of paving how to be redressed, Keb. St. ibid. sect. 10, 11, 13, 14.

receive their Order for the redreſſing thereof, and a Warrant under their Hands and Seals to the Chamberlain to iſſue out Monies for defraying the Charge thereof, and a Sum of Mony not exceeding ten ſhillings for incouragement of his or their Diligence, and upon receipt of the Warrant the ſame is to be paid accordingly, and the Mayor, Aldermen and Commons in Common Council aſſembled, may ſet out and purchaſe for the publick Uſe of the City, in places convenient; parcels of Ground for Layſtalls to lay Dirt, Rubbiſh, &c. in, and places for publick Stores of Materials and Commodities, the ſaid pieces of Ground for the Uſes aforeſaid, to be purchaſed with the Monies raiſed out of the impoſition upon Coals; and perſons agrieved by reaſon of any Tax, Aſſeſsment or other Charge, within five days after demand thereof, to appeal to the Mayor and Court of Aldermen, whoſe Order in that behalf ſhall be final; and none that are liable to be taxed, rated or aſſeſſed by this Act, for or in reſpect of any Houſes, Toſts, or other Hereditaments towards the publick Charge of altering, inlarging, amending or cleanſing of

Layſtalls for laying Dirt and Rubbiſh, &c. in, to be purchaſed.

Appeals to whom to be made in caſe of grievance.

of the ſaid Vaults or Sewers, *&c.* ſhall be otherwiſe charged for or in reſpect of any Houſes, Toſts, *&c.* ſhall be otherwiſe charged therewith; and if any Perſons be ſued or proſecuted for any thing done in purſuance of this Act in any Court whatſoever, they may plead the general Iſſue, and give the ſpecial Matter in Evidence, and if the Plaintiff or Proſecutor ſhall be Non-ſuited, or ſuffer Diſcontinuance, or a Verdict paſs againſt him or her, the Defendant and Defendants ſhall recover their treble Coſts, for which they ſhall have like Remedy as in any Caſe where Coſts by Law are given to the Defendants. 2 W. & M. ch.

For the better cleanſing and keeping the Streets, Lanes and Paſſages within the City of *London* and Liberties thereof; it is enacted by the Statute of the ſecond Year of their Majeſties Reigns, King *William* and Queen *Mary*, That the ſame ſhall be ordered and mannaged, and Rates and Impoſitions laid and levied, and all other ways and means therefore uſed and obſerved, according to the ancient Uſage and Cuſtom of the ſaid City; and that the Lord Mayor for the time being, or any Alderman of the ſaid

The Lord Mayor or any Alderman may preſent where Aſhes, Soil, Duſt or Rubbiſh is thrown or laid in the Streets, &c.

City for the time being, upon his own proper Knowledge or View in the open General Seſſions may make preſentment of the throwing out, or laying or ſuffering any Aſhes, Soil, Duſt or Rubbiſh, or other Nuſance or Obſtruction in any the Streets, Lanes or Paſſages of the ſaid City or Liberties thereof, which Preſentment ſhall be good and effectual, and the Lord Mayor and Juſtices of the ſame City are immediately at the ſame General Seſſions to aſſeſs Fines for ſuch Offences, not exceeding twenty ſhillings for any one Offence, which ſaid Fines ſhall be levied and paid unto the Chamberlain of the City of *London* for the time being, for the uſe of the ſame City, to be employed in the publick Payments of the ſame City.

Inhabitants in Out-Pariſhes in Middleſex, Liberties of Weſtminſter and Southwark, to ſweep before their Houſes, &c. twice in the Week.

All Perſons inhabiting in the Out-Pariſhes in *Middleſex*, *Weſtminſter*, and the Liberties thereof, and the Borough of *Southwark*, or in any the Streets, Lanes or Allies compriſed within the Weekly Bills of Mortality, and the Town of *Kenſington*, by the Statute of the ſecond Year of their Majeſties Reign King *William* and Queen *Mary*, muſt twice in the Week, *viz.* *Wedneſdays* and *Saturdays* at the leaſt, weekly

weekly ſweep the Dirt and Soil away before their Houſes, Buildings and Walls, and Walls of Churches and other publick Places, that it may be ready for the Scavenger to carry away, on pain of three ſhillings and four pence for every Offence or Neglect; and none are to throw, caſt or lay any Sea-Coal-Aſhes, Duſt, Dirt, Rubbiſh, Dung, or other Filth or Annoyance in any open Street, Lane or Alley within the ſaid City or Places aforeſaid, before their own Dwelling-houſes, Stables, Buildings or Walls, or the Buildings or Walls of Churches or Church-yards, or other publick Places, or ſuffer it to be done on the penalty of five ſhillings; and none ſhall lay any Aſhes, Dirt or Soil before the Houſes or Buildings of any Perſons Inhabitants of the Places aforeſaid, or before any Church or Church-yard, or any of their Majeſties Buildings, Palaces or Places whatſoever, or caſt, lay or throw any ſuch Annoyances into any publick or private Sink, or into any Water-courſe, or Common-Sewer, within the Places aforeſaid, but ſhall keep the ſame in their Houſes, Yards or Backſides, or the Yards or Backſides of Churches, and other publick Buildings, till the Scavengers

None to throw any Aſhes, Duſt, Dirt, &c. before their own Houſes or the Houſes of any others, &c.

No Annoyances to be caſt into publick or private Sinks, &c.

Scavengers or Officers come, and th
to carry, or cause the same to be ca
ried to them, or put into their Ca
Barrow or other Thing, on pain
forfeit twenty shillings for every O
fence; and the respective Church
wardens, and the House-keepers a
other Keepers of *White-Hall*, *Somer*
set-House, *St. James-House*, and
James Park, and the *Guard-Hou*
and *Stables* near it, and other th
Majesties Houses; and the Ushers, Po
ters and Keepers of Courts of J
stice, and all other Publick or oth
Houses and Places respectively, shall
liable to, and suffer the like Penal
for every the before-mentioned O
fences or Neglects done, committ
or suffered to be done before a
Church or Church-yard, or before a
of their Majesties Houses, Buildings
Walls, or before any Houses, Buildi
or Walls, or before any publick Bui
ings, Houses or Places whatsoeve
and the Rakers, Scavengers and oth
Officers thereunto appointed, s
every day in the Week (except Su
days and other Holy-days) bring th
Carts and other Carriages into th
several Charges and Divisions wh
they can pass, and give notice at
bef

Church-wardens, House-keepers, &c. punishable for suffering Annoyances before Churches, their Majesties Buildings, &c.

Scavengers every day to bring their Carts, &c.

fore their approach by a Bell, &c. and ſo in every Court, Alley, &c. here their Carts cannot paſs, and y there a convenient time, ſo that Perſons concerned may bring forth eir Duſt, Dirt, Aſhes, Filth and oil, to the Carts and Carriages ſo aying, and the Scavengers, &c. are ly to carry away the ſame on pain forfeit forty ſhillings for every Of-nce or Neglect.

None ſhall hoop, waſh or cleanſe any Pipes, Barrels or other Casks or eſſels in any the Streets, Lanes or en Paſſages aforeſaid, nor ſhall ſet t any Dung, Soil, Rubbiſh or empty oaches to make or mend, or rough imber or Stones to be ſawn, or rought in the Streets, on penalty of enty ſhillings for every Offence; d all open Streets, Lanes and Allies thin the Pariſhes or Places aforeſaid, ow ready paved, are from time to me to be repaired, amended and ved at the Charges of the Houſe-lders, Inhabitants there, and where ouſes are empty at the Charges of e Owners or Proprietors thereof, fore their Houſes, Stables or Out-uſes, ſo far as their Houſing, Walls Buildings extend, unto the Denter-ſtone

None to hoop, waſh or cleanſe Pipes or Barrels in the Streets.

Streets already paved by whom to be maintained, and under what penalty.

ſtone or Channel, or middle of t
ſaid Street, Lane or Alley, on pain
forfeit for every default twenty ſhilli
for every Perch or Rod, and af
that Rate for a greater or leſſer qu
tity, and twenty ſhillings a Week f
every Week after, until the ſame ſh
be ſufficiently paved; and any one
more Juſtices of the Peace of t
Place or Diviſion where any n
Streets are or ſhall be made, may fr
time to time view the ſame; and
upon ſuch view they think them
to be paved, or otherwiſe amend
then to certifie the ſame under th
Hands to the Juſtices of the Peace
the next reſpective General Quart
Seſſions of the Peace for the pl
where ſuch Streets are, or ſhall
made, who are to take ſuch Ord
therein for paving or amending as th
think fit, and all the Perſons concer
ed, by the time limited by the Ord
of ſuch Juſtices at the Seſſions, are
pave with Stone or Gravel, or oth
wiſe amend all the Ground that do
or ſhall lie in front before every Dw
ling-Houſe, or other Buildings in ſu
Streets and Ways extending to
middle of the Way that doth or ſh
lie before the ſame; and every Per
offe

New Streets how, and by what Order to be paved and repaired, and under what Penalty.

fending or neglecting ſhall forfeit
ty ſhillings for every ſuch Offence or
fault, for every Perch, and after
at rate for a greater or leſſer quan-
y, and the like Sum for every Week
the ſame be paved or amended, and
paired, and when paved and amend-
, the Sum as thoſe aforeſhewed that
all not pave and repair open Streets,
anes and Allies now paved; and
ch ancient Streets, Lanes and Allies
within any of the places aforeſaid, as
y Cuſtom and Uſe have been repaired
d paved by any other order, or in
y other manner ſhall be hereafter re-
aired, paved and maintained in ſuch
rt and manner, and by ſuch Perſons
have been uſed to do the ſame, un-
er the Penalties aforeſaid.

Ancient Streets, Lanes and Allies to be repaired as formerly.

On *Monday* or *Tueſday* in *Eaſter*-Week, yearly, the Conſtable, Church-wardens, Overſeers of the Poor, and Surveyors of the High-ways of the places aforeſaid, or the greater number of them calling together ſuch ancient Inhabitants as are uſually preſent at the Election of Pariſh Officers, the greater number of them then preſent, ſhall make choice of, and nominate and appoint two or more able Tradeſmen of their Pariſh to be Scavengers

Scavengers how and when to be choſen, and what penalty for refuſing the Office.

vengers for their Parish for the Ye
following, and till others be chosen a
setled in their Places, which Persons b
ing approved of and confirmed und
the Hands of two Justices of the Pea
within their respective Limits, a
within seven days after notice of su
Election and Confirmation, to ta
the Office upon them upon pain o
ten pounds forfeiture for every Refus
respectively; and in case of refusi
then other two are to be chosen a
confirmed in manner aforesaid, with
seven days after such refusal, in th
place of him or them so refusing
and having notice shall undergo th
like pain of ten pounds, in case of r
fusal and not taking the Office upo
him or them, within seven days aft
notice as aforesaid, the said Penalti
to be paid to the Surveyors of th
High-ways of the place, to be im
ployed towards the amending th
High-ways and Streets of the sam
Parish, Ward or Division, and to b
levied by distress and sale of the Goo
and Chattels of the Offenders, b
Warrant under the Hand and Seal
any one Justice of the Peace of an
the places aforesaid, to be directed
the Constables or other Officers of th
sai

How and by whom the Penalties are to be levied.

ſaid Pariſh, or any two or more of them, rendring the overplus to the parties (reaſonable charges for the diſtreſs only to be deducted,) and for want of diſtreſs or non-payment within ſix days or demand, or notice left in writing at the Houſe or Dwelling-place of the Offender, by the ſaid Conſtables or Officers, the ſaid Offender to be committed to the Common Gaol of the County, City or Place reſpectively, by the Warrant of any ſuch Juſtice of the Peace, under his Hand and Seal, there to remain without Bail or Mainpriſe till payment be made as aforeſaid; and ſo in like manner for every Perſon or Perſons neglecting or refuſing the ſame, and within twenty days after the election and confirmation of the ſaid Scavengers as aforeſaid, the Conſtables and ſuch other Officers and Pariſhioners as aforeſaid, or the greater number of them then preſent, ſhall make a Rate or aſſeſsment according to pound Rate, upon the Inhabitants of their Pariſh, which being allowed and confirmed by two Juſtices of the Peace of the places aforeſaid, ſhall be quarterly paid by every Inhabitant upon demand made by the Scavengers or Officers appointed

Within what time Rates are to be made, and by whom.

pointed to gather the same, and in case of refusal or neglect, shall by Warrant under the Hands and Seals of two such Justices of the Peace aforesaid, be levied by distress and sale of the Offenders Goods, and for want of distress by imprisonment (being no Peer of the Realm) until payment as aforesaid.

The Scavengers to account for the monies received by them.

And such Sums of Mony as shall be yearly assessed and collected, shall be yearly accounted for by the Scavengers for the time being, which collected the same, to two or more of the Justices of Peace of the place residing in or near to the respective places, for which such Scavengers were appointed within eight and twenty days after the electing of new Scavengers for the ensuing Year, and to pay to the new Scavengers what remains in their Hands; and any such two Justices of the Peace as aforesaid upon refusal to account, may commit the Refuser to prison, there to remain without Bail or Mainprise till he account and pay what remains upon Account; and the Scavengers may lodge their Dirt, Dust, Ashes, &c. in such vacant and publick places near the Street or High-ways, as two or more

Scavengers to lodge their Dirt in such publick places as the Justices of Peace shall approve of.

of the Juſtices of the Peace in their Petty Seſſions ſhall approve of, they giving ſatisfaction to the Owners and Occupiers thereof, and in caſe of unreaſonable demands, ſuch Juſtices of the Peace in their Petty Seſſions may moderate and determine it; and ſuch perſons as are agrieved with any Aſſeſsment or Determination of the Juſtices of Peace in their Petty Seſſions, may appeal to the Juſtices of the Peace at their General Quarter-Seſſions of the Peace for that place, whoſe Order and Determination upon hearing the Complaints, ſhall be final without farther appeal to any other Court; and where there are any High-ways within the ſaid Pariſhes, which cannot be amended without help of an Aſſeſsment, then one or more Aſſeſsments ſhall be made from time to time upon all the Inhabitants, Owners and Occupiers of Lands, Houſes and Tenements, or any perſonal Eſtate there, uſually ratable to the Poor, to be allowed, levied and collected by ſuch perſon and perſons as the ſaid Juſtices of the Peace at ſuch their General Quarter-Seſſions ſhall direct and appoint; and the Mony raiſed to be employed and accounted for towards the

Aſſeſsments when and how to be made.

repairing such High-ways from time to time as the said Justices shall order, to be levied by distress and sale of the Goods of the persons so assessed, (not paying the same within fourteen days after demand) rendring the overplus to the Owner, necessary Charges of making and selling the distress, being first deducted, which Assessments in any one year are not to exceed four pence in the pound of the yearly value of Lands, *&c.* nor eight pence for every twenty pounds personal Estate.

Sinks, Sewers and Vaults to be within the Commission of Sewers.

All Sinks, Sewers and Vaults made since the twelfth Year of King *Charles* the Second, within the City and Liberties of *Westminster*, and Parishes aforesaid, are to be subject to the Commission of Sewers; and the Commissioners of Sewers within the Liberties of their respective Commissions, may after amend, cleanse and scour any new Sewers, Sinks and Vaults, and direct the making of new ones, or may cut into any already made, and alter and take away any Nusances in the same, and alter or take away any cross Gutter or Channels in all or any of the Streets and Lanes in the Parishes aforesaid; and all Housholders in the Counties of *Middlesex* and *Surry*, and

Housholders to hang out Candles at Night.

and City and Liberty of *Weſtminſter* compriſed within the Weekly Bills of Mortality, whoſe Houſes adjoyn unto or are near the Street, ſhall on the out-ſide of their Houſes next the Street every Night from *Michaelmas* to *Lady-day*, yearly, ſet or hang out Candles or Lights in Lanthorns, from time to time, as it ſhall grow dark, until twelve of the Clock in the Night, on pain to forfeit two ſhillings for every default (except ſuch as ſhall agree to make uſe of Lamps to be placed at ſuch diſtances in the Streets as two or more Juſtices of the Peace ſhall approve of;) and every Truſs of old Hay (by this Statute) brought or offered to be ſold within the Cities of *London* and *Weſtminſter*, and all other places within the Weekly Bills of Mortality, between the laſt day of *Auguſt* and firſt day of *June*, ſhall weigh ſix and fifty pounds at the leaſt; and between the firſt day of *June* and laſt day of *Auguſt*, being new Hay of that Years growth, ſhall weigh ſixty pounds, and if it be old Hay of any former Years growth, then to weigh ſix and fifty pounds as aforeſaid; and none are to ſuffer their Waggons, Carts or Cars to ſtand or be

How much Truſſes of Hay are to weigh.

How long Waggons, Carts and Cars are to ſtand with Hay or Straw.

be in any of the places aforesaid loaden with Hay or Straw to sell the same, after two of the Clock in the Afternoon from *Michaelmas* to *Lady-day*, nor after three from *Lady-day* to *Michaelmas*, on pain to forfeit five shillings for every Offence or Neglect; and every Justice of the Peace within the Counties of *Middlesex* and *Surry*, and City and Liberties of *Westminster*, and Places aforesaid within their respective Liberties upon their own Knowledge or View, Confession of the Party or Proof of one credible Witness before him, may convict any Persons of the Offences aforesaid, so that they may incur the Penalties aforesaid; one moiety to the relief of the Poor of the Parish where the Offence is committed, to be paid to the Overseers of the Poor of the same Parish for the use of the Poor thereof, and the other half to the Discoverer and Prosecutor, in case the Conviction be so; but if it be by the View or Knowledge of the Justice of Peace, then one half to the relief of the Poor as aforesaid, and the other half if for default of payment, to be paid to the Scavengers of the place to be imployed for the repair or paving and cleansing the

the ſaid Streets or Places, or otherwiſe to the relief of the Poor aforeſaid; all the ſaid Penalties to be levied by diſtreſs and ſale of the Goods and Chattels of the Offenders, by Warrant under the Hand and Seal of any one Juſtice of the Peace of the place directed to the Conſtables or Headboroughs of the ſame Pariſh where the Offence was done, rendring the ſurpluſage to the party, and in default of diſtreſs or not payment within ſix days after demand (where it is not by this Act otherwiſe provided) or notice in Writing left at the Offenders Houſe or Dwelling-place by the Conſtable or Headborough, then the Offender (not being a Peer of the Realm) to be committed to the Common Gaol of the Counties or City reſpectively, by Warrant as aforeſaid, there to remain without Bail or Mainpriſe until payment.

Penalties how to be levied.

By this Statute the Wheels of every Cart, Car or Dray, to be uſed for the Carriage of any thing whatſoever, from any place within the ſaid Cities and Places, to any place within the ſame, where the Streets are paved, are to be made to contain in full breadth ſix Inches in the Felly, and muſt not

The breadth of Cart Wheels and Dray Wheels, &c.

be wrought about with Iron-work, nor drawn with above two Horſes after they are up the Hills from the Water-ſide, and the Owners and Proprietors offending herein, are to forfeit forty ſhillings for every time ſuch Cart or Dray ſhall be uſed to the contrary, to be levied as aforeſaid; but this is not to extend to any Country-Cart or Waggon that ſhall bring Goods to the City or Places aforeſaid, or ſhall carry any Goods half a Mile beyond the paved Streets of the ſaid Cities and Places.

3 & 4 W. & M. ch. 12. But now by the Statute of the ſecond and third Years of their Majeſties Reigns, *chap.* 12. this Clauſe is altered, for any Inhabitant of any of the Pariſhes within the Weekly Bills of Mortality, who dwells off and from the Pavement, or uſes his Cart as well off as upon the Pavement, and any Brewer or Scavenger, or other Perſon employed in carrying away the Dirt and Soil of the Streets, Lanes and Allies, may make uſe of any Cart or Dray with Wheels ſhod with Iron, and narrower than ſix Inches in the Fellies, and drawn with more than two Horſes, notwithſtanding this former Act of Parliament, or any Law or Uſage to the contrary.

No

No perſon or perſons whatſoever by this Statute of the ſecond Year of their Majeſties Reigns, ſhall breed, feed or keep any ſort or manner of Swine in any part of the Houſes or Backſides of the paved Streets of the ſaid Cities, Borough or Pariſhes, where the Houſes are contiguous, upon pain to forfeit the ſame to the Church-wardens and Overſeers of the Poor of the Pariſh where ſuch Swine ſhall be kept, bred or Fed to the uſe of the Poor thereof, and all or any of the Church-wardens, Overſeers of the Poor, Chappel-wardens, Conſtables, Beadles, Headboroughs or Tythingmen of any of the Pariſhes of the ſaid Cities or Places at all times in the day-time, by Warrant under the Hand and Seal of the Lord Mayor, or any other Juſtices of the Peace of the place may ſearch in all ſuch places in their reſpective Pariſhes for the finding all ſuch Swine, and to ſeize, drive, take and carry away all that ſhall be ſo found, and to ſell the ſame for the beſt price, that can be had, and to deliver the Mony to the Church-wardens or Overſeers of the Poor of the Pariſh where ſuch Swine ſhall be ſeiſed, to be diſtributed to the Poor there, in ſuch manner as

None to breed, feed or keep Swine.

the Church-wardens and Overseers shall think fit, and if any shall be sued in any Court for any thing done in pursuance of, or execution of this Act, they may plead the General Issue, and give the Special Matter in Evidence, and if a Verdict pass for the Defendants, or the Plaintiff be Non-suited, or suffer Discontinuance, then the Defendants shall recover treble Costs, for which they shall have the like remedy, as in any Case where Costs by the Law are given to the Defendants.

Persons sued may plead general Issue, and give special Matter in Evidence.

This Act being of such universal and beneficial Concern for the Places mentioned therein, I have therefore taken all the Heads of it quite thorow, though some of the Paragraphs thereof have no relation to the repairing the Highways, or paving or cleansing the Streets, Lanes and Allies there.

CHAP.

CHAP. XIII.

An Abridgment of ſo much of the Statutes of 15 Car. 2. chap. 1. *and* 16 *and* 17 Car. 2. chap. 10. *as concerns the repairing the ancient High-way, and Poſt-Road from* London *to* York, *and ſo into* Scotland, *as lies in the ſeveral Pariſhes, Towns, Vills and Hamlets in the County of* Hertford; *and now revived by the Statute of the fourth and fifth Years of their preſent Majeſties Reigns.*

Juſtices of Peace at the Seſſions to chooſe nine Surveyors, Keb. Stat. f. 1256. ſect. 1.

BY the Statute of 15 *Car.* 2. *chap.* 1. It is (amongſt other things) enacted, That the Juſtices of Peace for the County of *Hertford*, every Year at the Seſſions to be holden after *Eaſter*, ſhall from time to time nominate and appoint nine ſufficient and able Perſons reſiding and inhabiting within the ſaid County, to be Surveyors for ſo much of the ſaid High-way, as lies in the ſeveral Towns and Pariſhes of the ſaid County, and the ſaid Juſtices of Peace are to cauſe notice in Writing to be given to the ſaid Surveyors

Upon notice given them in writing, they are to take the Office upon them, Keb. St. printed 1685. f. ibid. ſect. ibid.

veyors so chosen, who (having no lawful impediment to be allowed by the Justices by whom they were chosen) are to take the Office upon them, and perform their Duty in the speedy execution of the said Act, and upon refusal or neglect, the said Justices at their Quarter-Sessions, may impose such Fine upon such Person so refusing or neglecting as they think fit, not exceeding ten pounds, and may cause the same to be levied by distress and sale of his or their Goods, rendring to the party so distrained the overplus, if any shall be; and such as take the Office upon them, are within a Week after notice given them as aforesaid, to meet and assemble themselves together in some convenient place within the County to be appointed by the Justices of the County at their Quarter-Sessions, to the intent that they may view the said High-ways, and to consider what Reparations will be needful; and to provide Stones, Gravel and other Materials and Necessaries to be used, in the repair and amending the said High-way at the places aforesaid; and three or more of them being so assembled after notice given as aforesaid, are to appoint a Receiver or

What forfeiture for refusing or neglecting the Office, Keb. Stat. f. 1258. sect. 8.

The Surveyors to meet at a convenient place to consider of Repairs and providing Materials, Keb. St. printed 1684. f. 1256. sect. 1.

The Surveyors to appoint a Collector of Toll, Keb. Stat. ibid. sect. 1.

Collector of Toll, and ſuch Officers they find neceſſary for carrying on the ſaid Work (with moderate Allowances as ſhall be thought fit) to be approved of by any two or more Juſtices of the Peace of the County living near to the ſaid High-way or Place aforeſaid, or otherwiſe to be removed, and other fit perſons to be choſen in their places by the ſaid Juſtices of the Peace; and ſuch fit perſon or perſons appointed by the Surveyors with ſuch conſent and approbation as aforeſaid, ſhall receive and collect the Toll at *Wades* Mill in the ſaid County, and no receive and take in the Name of Toll or Cuſtom, for every Horſe one peny, for every Coach ſix pence, for every Waggon one ſhilling, for every Carr eight pence, for every ſcore of Sheep or Lambs an half peny, and ſo proportionably for greater numbers, for every ſcore of Oxen or Neat Cattel five pence, for every ſcore of Hogs two pence, and ſo proportionably for every greater or leſſer number, not being under five, and upon refual or neglect to pay upon demand made by the Collector or Receiver appointed to receive the ſame, in ſuch caſe he may diſtrain and detain ſuch Horſe, Cart,

The Collector to take Toll, and for what things, and how much, Keb. St. ibid. f. 1259. ſect. 11.

Cart, Coach, Waggon, Oxen Cattel aforementioned, or any of the till payment thereof, with such D mages as the party so distraining sustain by keeping such distress; if any return the same day with same Horse, Coach, Waggon, or ot Carriage, or with Cattel, they not to pay a second time for the sa things that same day, and every p son or persons coming immediate and primarily to and from the seve Parishes of *Standen*, *Thundridge*, *W* and *Benges*, adjacent to *Wades M* may carry any quantities of Ston Sand, Lime or Gravel, Dung, Mo or Compost of what nature or kin soever, Brick, Chalk or Wood, a that they and all Carts with Hay Corn in Straw at Hay-time or Harve Plows, Harrows, and other Imple ments of Husbandry, and all oth things whatsoever, employed in th husbanding, stocking and manurin of their Lands, shall pass to and fr through the said place without payin any Toll for their so passing throug the same; and Souldiers upon the March, and persons riding Post, a to pay no Toll; the Collector Receiver of the Toll is to give a accou

Toll not to be paid twice on one day for the same things, Keb. Stat. printed 1684. f. 1259. sect. 11.

What Persons, & from what places, & for what things to pay no Toll, Keb. Stat. ibid. sect. 14.

Souldiers on their March, & Posters to pay no Toll, Keb. St. ib. sect. 17.

count of ſuch Monies as he receives, often as the Surveyors or any three them ſhall appoint, and pay the ony to them, or unto ſuch Trea- ers as they ſhall appoint, to be paid and expended in the Repairs of Places aforeſaid, and not elſewhere; d the Surveyors every Year at the arter-Seſſions to be held for the unty next after *Eaſter*, ſhall give account in Writing under their nds to the Juſtices of Peace there be aſſembled, of the Mony which y or any of them have received m the Collector or Receiver of Toll, and of their Diſburſments out the Repairs aforeſaid, or by ſon of their Offices, and to pay overplus (if any be in their Hands) the Surveyors to be choſen for the ear enſuing, or to the Treaſurer or ceiver by them to be appointed, d the Juſtices are to make ſuch al- wance to the Surveyors out of the nefit of the Toll for their Care and ains taken in the Office as they think ; and in caſe of non-payment by e Collector or Receiver of the Toll, on requeſt made as aforeſaid, or at the Surveyors or any of them, ſhall not make ſuch account or pay-

Receiver of the Toll to give an account to the Collectors, Keb. Stat. ibid. f. 1257. ſect. 435. But this Clauſe is altered by Stat. 16 & 17 Car. 2. ch. 10

Surveyors to account to the Juſtices at Eaſter Quarter-Seſſions, Keb. Stat. printed 1684. f. 1257. ſect. 5.

ment

ment as aforesaid, the Justices at the Quarter-Sessions of the Peace to be held for the County, may make enquiry as well by Confession of the Parties, as by Testimony of two or more Witnesses upon Oath, and in case of default in any of those Offices to be adjudged by the said Justices the party or parties so convict, are to be committed to the Common Gaol of the County, there to remain without Bail or Mainprize till account be made, and payment as aforesaid.

Surveyors to charge Teams and Labourers, Keb. Stat. ibid. f. 1256. sect. 2.

The Surveyors or any three or more of them from time to time, as they shall see cause, may appoint and require all Persons inhabiting in the County within three miles of the places aforesaid, who by any Law or Statute in force, is or are chargeable to labour at the High-ways, or to find any Wain or Cart for the amending thereof, upon reasonable notice to send his or their Wain or Cart or Team, or to come to labour in the said High-way, at any of the places aforesaid, so furnished as the Law directs for amending other High-ways, when and as often as the said Surveyors or any three or more of them shall think needful and appoint, for which the

all pay them according to the rate of the Country, upon pain to forfeit ſhillings for every Team every day aking default, and every Labourer ighteen pence; but none are to ſend eir Team, Cart or Waggon for mending the ſaid Way, or to go and abour therein, above three miles from eir Dwelling-houſes, nor above three ys in one Week, nor in Seed-time, ay or Corn-Harveſt; and any two more Juſtices of the Peace of the ounty are to determine all Differences out the Hire of ſuch Perſons and eams, Carts and Waggons, and the uſtices determination in ſuch caſes to e concluſive; and where there is not fficient Gravel, Chalk, Sand or ones within any Pariſh, Town or illage, or Hamlet wherein the ſaid igh-way lies, then three or more of e Surveyors or ſuch Perſons as they ppoint, may dig, take and carry way ſuch quantities of ſuch Materials t of the Waſte or Common of any eighbouring Pariſh, Town, Village Hamlet as they think neceſſary for e repairing of the ſaid Way, with-t paying any thing for the ſame; d when there is not ſufficient in ſuch aces, then they may dig in the ſeveral Grounds

In what places the Surveyors, may dig for Gravel, &c. Keb. Stat. ibid. f. 1257. ſect. 3.

Grounds of any Persons where such Materials are to be found, not being a House, Garden, Orchard, Yard or Park stored with Deer within any Parish chargable towards the Repairs of the said High-way, and carry away from time to time such quantities as aforesaid without paying any thing for the same save only reasonable Satisfaction to the Owners or Occupiers of the Grounds for the damage they shall thereby sustain, to be assessed (in case of any difference) by the Justices of the County at their next, or any other Quarter Sessions held for the County, and the Pits or Places so digged to be filled up with all convenient speed (to be adjudged by the said Justices) and then levelled with Earth, or other Materials, or else railed about so as the same may not be deemed dangerous to Man or Beast.

Surveyors may engage the Toll for present Money Keb. Stat. f. 1258. sect. 6.

The Surveyors (with the consent of the Justices of the Peace at any Quarter-Sessions of the Peace to be held for the County) by Indenture under the Hands and Seals of the said Surveyors for the time being, may transfer and grant the Profits of the Toll for any time or term not exceeding nine Years, to any Person or Per-

sons

ons that ſhall and will upon that ſecurity advance any preſent Sum or ſums of Mony towards the preſent reparation of the ſaid High-ways, for the repaying the ſame with Intereſt; and in caſe Mony cannot be borrowed on that Security, then the Juſtices at their Quarter-Seſſions, when they ſee cauſe, may make a Rate for the repair of the ſaid High-way, of ſuch Sum or Sums of Mony as they think fit for the ſpeedy effecting the Repairs thereof, to be raiſed upon the Pariſhes that lie in or near the ſaid Road, and to be paid to the Surveyors, or to their Receiver or Collector, and in caſe of refuſal by any Perſon to pay, then the ſaid Surveyors or their Receiver or Collector may diſtrain for ſuch Sum or Sums of Mony, and ſell the Diſtreſs, rendring the overplus to the Owners; and the Mony ſo advanced by the ſaid Towns, is to be repaid by the Surveyors as it doth ariſe out of the Toll; and ſuch Perſons who by Law are chargeable towards the repairing of the ſaid High-way and Places, ſhall ſtill remain ſo chargeable notwithſtanding this Act of Parliament.

When and how the Juſtices may make a Rate, Keb. ibid.

Repayment out of the Toll to the Towns charged with a Rate. Keb. St. f. 1258. fol. 7.

Such as were formerly chargeable towards Repairs to be ſo ſtill, Keb. ibid. f. 1259. l. 11.

Fines and Forfeitures to be levied by the Surveyors, Keb. Stat. 1258. sect. 9.

All Fines and Forfeitures incurred by this Act, shall be paid to the Surveyors or any three of them, or their Treasurer towards the repairing the said High-ways and Places; and in case of refusal, or of Persons accepting and dying in the Office, or discharged for any lawful Impediment, then two or more Justices in the County living in or near the said High-ways and Places aforesaid, are to appoint some other fit person or persons within the County, in the place of him or them so refusing, dying or discharged; and such persons as are so chosen, having notice thereof given under the Hands and Seals of such Justices so choosing them, are to take upon them the Office, and execute the same in such manner, and under such Penalties, as if he or they had been chosen by the Justices at their Sessions of the Peace in manner aforesaid; and all Suits upon this Act to be laid in the same County, and the Defendant may plead the General Issue, and give the Special Matter in Evidence; and if at the Tryal it appear the Matter was done in pursuance and by authority of this Act, and that such Action shall be brought in any other County, then the Jury to find

In Case of refusal or death, new Surveyors to be chosen, Keb. ibid.

Actions upon this Statute to be laid in the same County; general Issue pleaded, and give special Matter in Evidence, Keb. ib. sect. 10.

find for the Defendant; and upon ſuch Verdict, or that the Plaintiff ſhall be non-ſuited or diſcontinue this Action after the Defendants appearance; or if upon Demurrer Judgment ſhall be given againſt the Plaintiff, the Defendant ſhall have double Coſts, and have like remedy for the ſame, as any Defendant hath in other Caſe by Law. And this Act was to continue for eleven years, which ended *Anno Dom.* 1674.

Then by the Statute of the 16 and 17 Years of *Car.* 2. *chap.* 10. The Toll taken at *Wades* Mill, was continued for one and twenty years, to commence from the time mentioned in the former Act; and the Mony ariſing therefrom, to be imployed for the repaying the Debt with Intereſt borrowed by the *Hertfordſhire* Gentlemen, for the repairing the ſaid High-way; and that the Perſons impowred by the former Act for the repair of the ſaid High-way within the County of *Hertford*, to have the ſame power to repair the Ways leading from *Puckeridge* to *Barley* in the ſame County, as they have to repair the High-way in the ſaid County, leading from *London* to *York*; and that they ſhall and may apply ſuch part of the Toll thereunto

16 & 17 Car. 2. ch. 10. Toll at Wades Mill continued for 21 years, Keb. Stat. f. 1307. ſect. 3.

Way between Puckeridge and Barley to be amended with part of the Toll, Keb. ubi ſupra ſect. 4.

(having an equal care on both Highways) as they shall find needful, and the Collector of the Toll upon Oath before the next Justice of the Peace is to account weekly to the Receiver General for the whole Mony received, which account so made, shall be returned into the next General Sessions to be held for the said County by the said Justice of Peace before whom such Oath was taken; and all Persons chargeable by Law towards the repair of the said High-ways, to remain still chargeable, and pay yearly six pence in the pound, according to the true value of their Estate, towards the repairing of the said High-way, during the time of the continuance of this Act, to be paid to the Treasurer appointed to receive the Toll, and for default of payment, by the space of six days after demand, then the Surveyors of the High-ways for the time being to levy the same by distress and sale of the Goods of the Party refusing to pay, returning the overplus if any be, to the Owner.

Collectors of the Toll to account weekly upon oath, Keb. ubi supra, sect. 8.

All persons chargable to the repairs to pay yearly six pence per pound, Keb. St. f. 1308. sect. 7, 12.

And if before the expiration of the said Term of one and twenty Years the High-ways be adjudged at the publick Quarter-Sessions for the County of *Hertford*

Upon adjudication of the Ways being amended, and Monies advanced repaid, then the Toll to cease, Keb. Stat. f. sect. 9, 10.

Hertford to be ſufficiently amended, and that ſuch Sums of Mony already borrowed and laid out, or ſhall be borrowed and laid out for the uſe aforeſaid, be repaid with Intereſt for the ſame, then from and after ſuch adjudication made, and repayment of ſuch Mony ſo borrowed and laid out as aforeſaid, the aforeſaid Toll in the ſaid County to ceaſe and determine; and if the High-ways ſhall be ſufficiently amended, and the Juſtices of Peace at their Quarter-Seſſions make no adjudication, in ſuch caſe the Juſtices of Aſſize for the County of *Hertford* may make ſuch adjudication, which being entred with the Clerk of Aſſize for the ſaid County ſhall be a good adjudication of the amendment of the ſaid High-ways, and from thenceforth the ſaid Debt being fully ſatisfied to ſuch as ſhall have advanced any Mony thereupon, the ſaid Toll ſhall ceaſe and determine.

Toll at Wades Mill, and all former Powers given by virtue of the two former Statutes revived for fifteen years, as to the County of Hertford, 4 & 5 W. & M. ch. 9.

These two Statutes being expired, and the Parliament taking notice that this great Poſt-Road and the other Way cannot be amended and repaired by the ordinary courſe of the Laws and Statutes of this Realm now in force, is to ſuch part thereof as lies within

the County of *Hertford*, it is there-
fore enacted by the Statute of 4 and 5
of their Majesties Reigns, King *Wil-*
liam and Queen *Mary*, That the
Toll to be taken at *Wades* Mill for
the County of *Hertford*, formerly by
force of the before-mentioned Acts
of Parliament, be revived, set up and
taken again in the same manner by
the said Acts mentioned to continue
for the space of fifteen Years from
the passing of this Act, and that the
Monies thereby arising, be imployed
for the repair of the said High-ways
within the said County of *Hertford*
with a Proviso, That if the said High-
ways before the expiration of the
said Term of fifteen Years be in good
and sufficient repair, and an adjudi-
cation thereof to be made at the As-
sizes, or the General Sessions of the
Peace to be holden for the said County
(as is provided by the said Statute
of 16 and 17 *Car.* 2.) the Toll
shall from thenceforth cease and deter-
mine as in the said Act is directed and
appointed; and it is farther provided
by this Statute of 4 and 5 of their
present Majesties Reigns, That the se-
veral Officers and Persons impowered

Upon adjudication of amendment of the High-ways, the Toll to cease.

and by the said Acts, to the purposes therein, mentioned, so far as may any ways concern or relate to the said County of *Hertford* shall have the like Powers and Authorities by virtue of this Act, as they and every of them had by virtue of the said former Acts; and that all Clauses, Provisions, Penalties, Forfeitures and Exceptions whatsoever, therein mentioned concerning the collecting, paying, ingaging or accounting for the said Toll at *Wades* Mill be by virtue of the said Act renewed and put in execution again during the continuance of this said Act, as if they were particularly expressed and repeated in the same.

CHAP. XIV.

How new Ways may be set out in the Welds of Kent *and* Sussex, *and how, and by whom* Kings Ferry *in the Isle of* Sheppy, *and the Ways belonging to the same, with the Sea Banks and Sea Works on the Coasts of* Norfolk *are to be repaired; and what the Owners and Occupiers of Iron Works are to perform or pay towards the repair of the High-ways in* Sussex, Surrey *and* Kent.

ANY Person within the Wealds of *Kent* and *Sussex* (with the assent of two Justices of the Peace of the County, and twelve discreet Men of the same Hundred, or other Hundreds adjoyning) may assign and lay out a new Way in and over the Lands adjoyning to an old Way for the more commodious passage of the People, the said Person or others to his use being seised in Fee in Estate of Inheritance of the Lands over which the said new Way shall be laid out, and having no respect of profit to accrew thereby; and such so setting out a new

15 H. 8 ch. 6. & 26 H. 8. ch. 7. Statutes at large printed 1587. f. 537, 538. & f. 638, 639. High-way, Rast. f. Keb. Stat. printed 1684. f. 366. sect. 3. 4. 5. & f. 448. sect 3. Lamb. Eirenarch, lib. 3. ch. 1. Dalt. J. P. printed 1677. f. 108.

new Way, shall have the Soil of the old Way in severalty to him and his Heirs in recompence of the said new Way; and within three months after the setting out of any such new Way, the said two Justices and twelve Men are to certifie into the Chancery under their Seals, the length and breadth of the said new Way or Street, and of other things adjoyning and concerning the same; but such assignment of a new Way, and seising the Soil of the old Way in severalty, shall not debar any Person or Persons, or Body Politick of their Church-way, or Way to their Lands as formerly they had, at such convenient places through the old Way or Street as shall be assigned by the said two Justices of Peace and other twelve Men, and by them certified into the Chancery in form as aforesaid.

Kings Ferry in the Isle of *Sheppy* in the County of *Kent*, and the Ways leading to the same, to be maintained by an Assessment and Tax to be laid on every Year by the Jury impannelled and sworn at the Court or Law-day to be held at *Kingsborow* within the said Isle, the *Monday* next after the Feast of *Pentecost* upon themselves,

18 El. ch. 10. Stat at large printed 1587. f. 610, 611. Hieb. ways 12. Rast. Keb. Stat. f. 860. sect. 10, 11.

selves and all other the Inhabitants and Land Occupiers of the said Isle, an Acre of Fresh-marsh and Upland not to be taxed above one peny in the year, and ten Acres of Salt-marsh one peny; and all other Profits given for the maintenance of the said Ferry, are to be levied, recovered and received by the Ferry-Warden, and the Assessments to be distrained for and levied upon the Estreats of the Steward of the Court as other Amerciaments are used to be, and to be bestowed by the Ferry-Warden upon the repairing and amending the said Ferry and Ways, and he to give account to the Steward and Homage the next Law-day following, and to pay in the Arrears in his Hands to the next Ferry-Warden on pain to forfeit double of such Arrears to be levied as other pains in the Court be, and imployed to the maintenance of the said Ferry; and three Justices of the Peace (one to be of the *Quorum*) next inhabiting to the Town of *Middleton* in the County of *Kent* may assess all Land Occupiers dwelling out of the Isle of *Sheppy*, and within four miles distant from the Ferry, not exceeding in one year the Rates above mentioned for fresh

Ferry-warden to give account of Monies received, &c.

ſh and ſalt Marſh, and to appoint Collector or Collectors for the ſame, ho are to imploy the ſame upon the igh-ways leading from *Middleton* o the ſaid Ferry, and to give ac-ount thereof yearly to the ſaid Ju-ices.

Then by the Statute of 27 *Eliz.* Six, five, four or three Juſtices of the Peace inhabiting within eight miles of *Middleton* in the County of *Kent*, may lay a Tax upon the Grounds ly-ing without the Iſle of *Sheppy*, and within four miles diſtant from *Kings Ferry* there, and raiſe ſuch Aſſeſsments towards the High-way leading from *Middleton* to *Kings Ferry*, as to them ſhall ſeem reaſonable, though the Owners or Occupiers of the ſaid Grounds be dwelling without the compaſs of four miles, ſo as every Year one Acre of Freſh-marſh be not charged above one peny, nor ten Acres of Salt-marſh not above one peny, notwithſtanding the other Sta-tute.

27 El. ch 26. Stat. at large printed 1587. f. 723, 724. High-ways 7. Raſt. Keb. 8 Stat. f. 890.

The Juſtices of Peace within the County of *Norfolk* may yearly at any General Seſſions held for the ſaid County, appoint ſo many of the pub-lick Day-works as are ſet out for amending

27 El. ch. 24. Stat. at large printed 1587 f. 722. High-ways 4. Raſt. Keb. St. f. 890. ſect. 2, 3.

amending the High-ways as they think are ſuperfluous for that Work and imploy them for and towards the making and amending the Sea Banks or Sea Works there, which ſhall needfully require any ſuch amendment; and every Perſon ſo appointed (and chargeable to the amendment of the High-ways within three miles of the ſaid Sea Banks or Sea Works) ſhall yearly upon reaſonable warning given during ſo many days as ſhall be appointed in the Seſſions in reſpect of his or their Labour and Carriage ſtand and be charged towards the amendment of the ſaid Banks or Works, as by the Statutes of 2 and 3 *P.* and *M. chap.* 8. 5 *Eliz. chap.* 13. and 18 *Eliz. chap.* 10. they ſtand charged for the amendment of any High-ways, under the like pains and forfeitures contained in thoſe Statutes for their not performance; and the ſaid Juſtices at their ſaid Seſſions to appoint the High-Conſtables of every Hundred chargable towards the amending the ſaid Banks or Works to be Surveyors thereof, who are to take the Office upon them under the like Penalties contained in the ſaid Acts againſt Surveyors of the High-ways refuſing to

Juſtices to appoint Surveyors.

take the Office upon them; and the ersons imployed towards amending of e Sea Banks or Sea Works aforesaid, to discharged for so many days towards e amending of the High-ways as y are imployed in the other Work; d all Penalties and Forfeitures to be vied in manner and form as in the tatutes aforesaid are limited and appointed.

Occupiers of Iron-Works as Owners r Farmers for Life, Years or at Will, rrying any Coals, Mine or Iron to for any their Iron-Works in any ear between the twelfth day of *October* and first day of *May*, for every ree Wain or Cart Loads of Coal Mine, and every Tun of Iron carid within the said time by the space one mile in any High-ways within e Wields of *Sussex*, *Surry*, *Kent*, or y of them, shall pay three shillings to e next Justice of Peace dwelling near e places in the said County where e High-ways shall be most annoyed, or his Assigns, and upon default of payent to be levied by the said Justice or is Assigns, by distress of the parties goods ithin the County that should have e same; and for every thirty Loads Coal and Mine, or either of them, and

39 El. ch. 19. Dalt. J. P. printed 1667. f. 107, 108. Keb. St. printed 1674. f. 630. sect. 3, 4, 5. Lamb. Eirenarcha p. 305 & 475.

Distress to be made for default.

and every ten Tuns of Iron to b
carried by such Persons between t
first day of *May* and twelfth day
October in any Year, one Load
Cinder, Gravel, Stone or Cha
to be by them laid in such pla
where the High-ways within the L
mits aforesaid shall be most annoye

Justice of Peace to assign places where Cinders, &c. are to be laid.

as any Justice of the Peace of any
the said Counties dwelling near th
same, shall appoint, or else to pay
the said Justice or his Assign th
shillings within eight days after d
mand made at such Iron-Work,
or from which any Carriage shall
for and in allowance of every C
Load so to have been carried and la
as aforesaid, to be levied by distre
after default of payment upon d
mand; and if such Justice of the Pea
do not within forty days yearly af
the first day of *May* appoint wh
the said Cinder, Gravel, *&c.* shall
laid, or where the Mony due or p
for the same shall be bestowed, th
the same shall be laid where the S

Surveyors in default of the Justice of Peace to assign Places.

veyors of the High-ways within t
Parish so annoyed shall appoint, or
default thereof pay to them th
shillings for every such Load due a
uncarried in manner and form afo
sai

ld, on pain of ten ſhillings for every
ad of Cinder, &c. not carried and
d in the High-ways, or the three
illings unpaid as aforeſaid, to be paid
ſuch Perſon as ought to have car-
d and laid the ſame, or to have
id as aforeſaid, after Conviction and
reſentment thereof had before the
uſtices of Oyer and Terminer or Ju-
ces of the Peace in any of their open
ſſions, to be levied by diſtreſs by any
onſtable, Tythingman, Headborough
other Officer thereunto aſſigned
Warrant made in open Seſſions by
y Clerk of the Peace of the County
here the Offence is committed, or
any two Juſtices of the Peace (one
be of the *Quorum*) which were
eſent at the Seſſions upon the Con-
ction, and to be beſtowed upon the
pair of the High-ways at and by
e diſcretion of any ſuch Juſtices of
Peace living next the places moſt
noyed by the ſaid Carriages; and
no diſtreſs can be found, or the
ne be not paid by the Offender
thin twenty days after demand
de by the ſaid Officer appointed,
t then upon ſuch denial and non-
yment within twenty days as afore-
d, to forfeit double the Sum he
ſhould

Diſtreſſes by whom to be taken.

Penalties how to be beſtowed.

ſhould have paid, to be levied by ſuch ways as any two Juſtices of the Peace of the ſame County where the Offence ſhall be committed (one to be of the *Quorum*) ſhall be thought moſt meet, the ſame to be likewiſe imployed upon the amendment of the High-ways; and upon default of the Juſtices aſſigning where the Cinders, *&c.* are to be laid, or the forfeiture of Monies to be beſtowed, then the Surveyors of the High-ways within thoſe Pariſhes where the greateſt Annoyance ſhall be within twenty days after ſuch default ſhall aſſign the place on pain of forty ſhillings for every default, and they are alſo upon like pain to make demand of the Forfeitures to be paid in default of Carriages, according to the Limitation of the Act, and to make preſentment of every ſuch default of carriage or payment at the next General Quarter-Seſſions to be holden for the ſaid County where ſuch defaults ſhall be, upon pain alſo of forty ſhillings, one moiety to their Majeſties, and the other to the Informer that will ſue for the ſame in any their Majeſties Courts of Record.

CHAP

CHAP. XV.

The Heads of the Statutes made for paving, repairing and maintaining the Streets and Lanes in Cambridge, Ipſwich *and* Chicheſter.

BY the Statute of 35 *H.* 8. Bridge-Street, Highward-Street, the Market-place, and all other common Streets and Lanes in *Cambridge*, that then were or had been paved, were to be ſufficiently paved before *Lammas* following, by Perſons holding any Houſes, Lands, Tenements, Gardens, Yards, Orchards, Barns, Stables, Cottages, Curtilages or other Grounds or Soils there, in Fee-ſimple, Fee-tail, Frankalmoign, by Divine-Service, Term of Life or Years, *&c.* in length as far as their Premiſes reach to the midſt of the Street, on pain of twelve pence for every Yard ſquare not paved within the time, and ſix pence every Yard not kept in repair; and *Jeſus-Lane*, *Blackfriers-Lane*, with the Ways leading to *Barnwell*, and ſo through the Town to *Sturbridge*, *Harleſtone-Lane*, *St. Giles-Lane*, and the Lane leading from *St. Johns* to the Water-

35 H. 8. chap. 19 Cambridge Raſt. 2 St. at large printed 1587. f. 998, 999, 1000. Kob. 8° f. 601.

Which was Lammas 1545.

side, and all other common Back-Lanes not then paved, nor had been paved, to be repaired and amended with Gravel and other things by such Owners and Possessors as aforesaid, before the said time, on pain of two shillings for every Pole not repaired, and twelve pence for every Pole not kept in repair afterwards; The Chancellor, Vice-Chancellor or Deputy, and Mayor and Bailiffs or Deputy, with such four Assistants as they think fit, two of the University and two of the Town, twice in the Year, at *Easter* and *Michaelmas*, or within a month after to make enquiry by the Oaths of twelve Men, as well of Scholars Servants as Inhabitants of the Town, of all Defaults, and to set Fines at discretion, those set on the Scholars, or Scholars Servants, to be gathered by the Bedel for the use of the University, and those set on other Persons to be levied and gathered by the Chamberlain of the Town, or such Officer as the Mayor shall appoint to be imployed to the use of the Town; and the Chancellor, Vice-Chancellor and Mayor, and other Officers aforesaid, neglecting their Duty therein, or delaying or forbearing for

Enquiry of Defaults to be made twice in the year.

Fines set and imposed, how to be levied and disposed of.

Favour

favour or Reward by the ſpace of ſix Weeks after any one of the ſaid Feaſts to forfeit five pounds, half to the King, and half to the Informer, that will ſue for it in any of the Kings Courts; and Paviers not to take above one peny farthing for every Yard ſquare paving, or ſix pence a day and find himſelf, on pain to incur the Penalties comprized in the Statute of *Wincheſter* made for Artificers and Labourers; Leſſees that lay out Monies for paving or repairing as aforeſaid, to defalk ſo much out of their Rents, unleſs it be otherwiſe agreed.

The Streets of *Ipſwich* in the County of *Suffolk*, and Suburbs thereof (by the Statute of 13 *Eliz.*) were to be paved with good paving Stone; and for ever repaired by the Owners, Land-Lords or Ter-Tenants of Houſes, Lands or Tenements within the ſame Town in Fee-ſimple, Fee-tail, or for Life or Years, along, from and againſt their Houſes, Lands and Tenements adjoyning to the Street, *viz.* So much of the ſaid Street in length as his Houſe, Lands and Tenements ſo adjoyning extendeth unto, and in breadth during all the ſaid length to the Channel, or to ſuch place as the Channel

13 Eliz. chap. 24. Ipſwich 1. Raſt. Sr. at large printed 1587. f. 552, 553. Keb. Stat. f. 844.

there ſhall be appointed by the Bailiffs upon pain to forfeit for every Yard ſquare, not ſufficiently repaired and amended, eight pence, to go to the uſe of the Town, towards the amendment of the Haven there, and Streets adjoyning to any Church or Church-yard to be paved and repaired at the Charges of the Pariſhioners, to be indifferently rated by the twelve Headboroughs or the major-part of them; and the Bailiffs once every quarter of a year to enquire of Defaults by the the Oaths of twelve Headboroughs, and upon preſentment to levy or cauſe to be levied by diſtreſs or lawful means the ſaid Forfeitures and Sums of Mony ſo aſſeſſed, and may make ſuch Avowry, Cognizance or Juſtification as by the Common Laws may be made for Arrearages of Rent-Charge, and ſhall have like Judgment, Coſts, Damages and Return.

Forfeitures how to be diſpoſed.

All and ſingular Perſon and Perſons, their Heirs and Succeſſors which ſhall be immediate Owners, Land-Lords or Ter-Tenants of any Houſes, Lands or Tenements within the City of *Chicheſter*, in Fee-ſimple, Fee-tail, or for Life or Years, ſhall from time to time by the aſſignment of the Mayor for the

18 El. ch. 19. Paving Raſt. 7. Stat. at large printed 1587. f. 618, 619. Keb. St. t. 863.

the time being, pave or cauſe to be paved with good paving Stones, along, from and againſt his or their Houſe and Houſes, Lands and Tenements adjoyning to the Street, ſo much of the ſaid Street in length to the Channel, or to ſuch place as the Channel there ſhall be by the Mayor appointed, upon pain to forfeit for every Yard ſquare not ſufficiently paved within two months after warning thereof given by the major-part, upon the Preſentment thereof made before him, by the Oaths of twelve honeſt Men of the ſaid City choſen for that purpoſe, the Sum of three ſhillings and four pence; and the Owners, Land-Lords and Ter-Tenants of any Houſe, Houſes, Lands or Tenements in Fee-ſimple, *&c.* within the ſaid City adjoyning to any of the greater Streets there called the *Eaſt*, *Weſt*, *North* and *South-Streets*, their Heirs and Succeſſors ſhall from time to time maintain and repair the ſaid Street and Streets ſo adjoyning, with like Stone againſt their Houſes, *&c.* in ſuch like manner as above declared, in pain of twenty pence for every Yard ſquare not ſufficiently repaired and amended, and being preſented in manner and form

Pain for not paving.

Pain for not keeping Streets in repair, and well paved.

aforesaid, which Forfeitures shall be to the use of the Mayor and Citizens towards the maintenance and repairs of the City Walls; and the Mayor for the time being shall have power every quarter of a Year to enquire of the Defaults, by the Oaths of twelve Men, and to levy or cause to be levied the said Forfeitures by distress or other lawful means, and make such Avowry, Cognizance or Justification as by the Common Laws may be made for Arrearages of Rent, and have like Judgment for Costs, Damages and Return: The Lessee for Years or at Will may defalk and abate so much out of their Land-Lords Rents, as they shall expend in such paving, if there be no Covenant to the contrary.

Mayor to make inquiry every quarter of a year, and to levy Penalties by distress

Lessees to defalk out of their Rents.

CHAP

CHAP. XVI.

An Abſtract of the Statutes made for repairing Huntington-Lane *near the City of* Cheſter, *the common High-way called the* Cawſey *lying in the Counties of* Dorſet *and* Somerſet, *between the Towns of* Shaftsbury *and* Sherborne, *and for amending the High-ways within five Miles of the City of* Oxford.

BY the Statute of 37 *H.* 8. *Huntington-Lane* near the City of *Cheſter*, being in length two miles, and an half, or thereabouts, is to be repaired from time to time by one that ſhall dwell in the ſaid Lane, who ſhall have Graſs, Paſture or Feeding for five Kine, or five other kind of Beaſts or Head of Cattel, in and upon the ſaid High-way, and upon the ſides of the ſame, from *Botbil* to *Butterback-Bridge*, Sir *William Stanley* and Sir *Hugh Calverly* and their Heirs Males being of full Age (and in default of them) the Mayor and Aldermen of *Cheſter* ſhall appoint the ſaid Party, and remove him if he be

37 H. 8 ch. 3. High-ways Raſt. 2. Stat. at large printed 1587. f. 1011. Keb. St. f. 606.

negligent in repairing any part of the said Way.

1 M. Sess. 3. ch. 5. St. at large printed 1587. f. 230, 231. Shirborne Rast. 1. Keb. St. f. 716.

By the Statute of the first of Queen *Mary*, The common High-way called the *Cawsey*, paved with Stone in the Counties of *Dorset* and *Somerset* between the Towns of *Shaftsbury* and *Sherborne*, being about twelve miles in length, shall be repaired and amended by the Owners, Tenants, Farmers and Inhabitants of the Mannors, Lands, Tenements and Parishes lying nigh to the said Cawsey on either side thereof, and by the Inhabitants of the Towns of *Shaftsbury* and *Sherborne*, and by the Owners, Tenants and Farmers of Mannors, Lands, Tenements and Hereditaments, and by the Inhabitants of, and within the Forest of *Gillingham*, and Liberties of *Gillingham* and *Alcetter*, and the Hundreds of *Redlane* and *Sherborne* in the County of *Dorset*, and of the Hundred of *Horborne* in the County of *Somerset*, and the Justices of Peace of the said Counties at their Quarter-Sessions, or otherwise, may call before them, or four of them at the least (two to be of the *Quorum*) so many of the Persons bound to repair and amend the said Cawsey as they think fit, and to make Orders

Who chargable to the repairs.

Justices of Peace to make Orders and set Fines.

Orders and Aſſeſsments from time to time towards the repair thereof, and may ſet Fines on Defaulters, and make Orders for levying by diſtreſs the ſaid Aſſeſsments and Fines, and for a yearly Account to be made of the ſame to whom they appoint; and the ſaid Orders to be entred and inrolled of Record by the Clerks of the Peace of the ſaid two Counties in the Rolls of the Seſſions; and all Pains and Penalties to go towards the amendment of the ſaid Cawſey; and if the Juſtices refuſe to put this Act in execution, then upon requeſt of the Lord Chancellor of *England*, or Lord Keeper of the Great Seal ſhall make a Commiſſion to certain diſcreet Perſons to put this Act in execution, who ſhall have the ſame Power and Authority as is given to the Juſtices of Peace by this Act.

Pains and Penalties how to be beſtowed.

It is enacted by the Statute of 18 *El.* That every Perſon and Perſons reſident, dwelling or inhabiting within five miles of the City of *Oxford*, and having in his Occupation, to the uſe of himſelf or any other, a Yard-Land or more, in Tillage, Paſture or other Ground, or uſing a Draught, Plow or Wain at their own proper Coſts and

18 Eliz. chap. 20. Bridges Raſt. 4. St. at large printed 1587. f. 619, 620. Keb. St. f. 863, 864.

and Charges, for every such Yard-Land is to send one Wain, Draught or Cart furnished after the Custom of the Country, with Necessaries convenient, and two able Men for amending, repairing and upbuilding of decayed Bridges, Ways and Passages within a mile of the said City, and every other Housholder, Cottager or Labourer within the said Circuit (being no hired Servant) must go themselves, or send a sufficient Labourer to the repairing the same, and all to be at the command of certain Supervisors to be appointed by the Vice-Chancellor and Mayor, with other Justices of the University and City, and do their Carriages and Labours by the space of six days, between the Feast of St. *John Baptist* and the Feast of *All-Saints*, upon twelve days warning given or sent in writing to the Vice-Chancellor and Mayor, or either of them, to the Constable or other Officer of the Place that ought to serve, and every Person making default, doth for every days default, or any part thereof forfeit five shillings, to be levied and imployed for the amendment of the said Bridges and Cawseys, and the Persons making default, and making no reasonable

ſonable compoſition for the ſame, then the Vice-Chancellor and the Mayor, or other their Officers to diſtrain, and keep and detain the diſtreſs till the Forfeitures and Charges of keeping the diſtreſs be paid: But by the Statute of 35 *Eliz.* this laſt Article was altered, and it is provided that no Perſon or Houſholder living within five miles of *Oxford*, and not having in poſſeſſion a Yard-Land, ſhall be chargeable with any thing towards the amending the ſaid Bridges and High-ways; and that ſuch as have a Yard-Land or more in poſſeſſion, lying within the ſaid compaſs, ſhall pay yearly the Sum of four pence for every Yard-Land before the Feaſt of *Pentecoſt*, to the Vice-Chancellor and Mayor, or their Deputy or Deputies towards the amending of the ſaid Bridges and High-ways, and no other Penalty, with like Remedy by diſtreſs for the ſame, being due and not paid, as is limited and appointed by the other Statute of 18 *Eliz. chap.* 20.

35 El. ch. 7. Keb St. f. 913. ſect. 28.

Every Yard-Land to pay four pence, and none elſe chargeable.

Note, That *Virgata Terræ*, or a Yard-Land, called by the *Saxons Girdland*, and now the *G.* is turned to *Y.* is in ſome Countries ten Acres, in ſome fifteen, in ſome twenty, in ſome twenty

Co. Lit. f. 5. a. 69. a. Terms of the Law and Blounts Law Dict. verb. Yard-Land, and Lamb. Expoſition of Words.

twenty four, in some thirty, and in others forty Acres, and so doth not contain any certain quantity of Land, but is various according to the Custom of the place where it lies.

CHAP. XVII.

The Heads of the two Statutes made in the 18 *and* 27 *Years of Queen* Elizabeth *for the maintenance and repair of* Rochester-Bridge *in the County of* Kent.

18 El. ch. 17. Stat. at large printed 1587. f. 616, 617. Reb. St. f. 863.

THE morrow after the General Quarter-Sessions of the Peace holden next after *Easter* in *Kent*, the Wardens and Commonalty of the Lands Contributory to *Rochester-Bridge*, or so many of them as can conveniently attend, shall for ever assemble at the Castle of *Rochester* near the Bridge, and there elect by the most Voices, two Persons of the same Commonalty, such as are House-keepers, and commonly resident within the County of *Kent*, and are healthful and can attend the Office, to be Wardens of the said Bridge, and twelve Persons of the said Commonalty to be Assistants

ſiſtants to the Wardens for one whole year after the Feaſt of *Pentecoſt* then next following, at which ſaid Elections of Wardens and Aſſiſtants, two Houſholders at the leaſt out of every Pariſh within ſeven miles of the ſaid Bridge wherein any Contributory Lands lie, ſhall be preſent to give their Voices at the ſaid Elections; and the two Wardens thus choſen ſhall do their endeavour for that Year to benefit the ſaid Bridge, and ſhall receive the Fines, Rents and Revenues of the Lands belonging to the Bridge, and of all Contribution Mony payable to the uſe of the ſame Bridge, and ſhall anſwer and pay out of the ſame as cauſe ſhall require; and the new Wardens ſo choſen, if then preſent, ſhall be bound to the former Wardens to make account of all Receipts, and payment of Arrearages found upon the ſame; and if any who is choſen Warden, ſhall be abſent at the time of Election then notice ſhall be given by Letter ſent by one or both of the former Wardens, and delivered at the Dwelling-houſe of ſuch abſent Perſon elected, on pain of five pounds; and every ſuch abſent Perſon ſo elected before the Feaſt of *Pentecoſt* then next following, before the

Abſence of Houſholders at the Election of the Wardens forfeit 10 s. a piece, 27 El. ch. 25. Stat. at large f. 728. Keb. f. 890.

New Wardens bound to the former Wardens to make account and elected Wardens being abſent to have notice ſent in writing.

the *Custos Rotulorum* of that County, or two Justices of the Peace of the same County (one to be of the *Quorum*) shall become bound to render Account and pay of Arrearages as aforesaid; and every Warden elected as aforesaid, refusing to become bound, to forfeit ten pounds, to be recovered by the former Wardens in an Action of Debt for the use of the Bridge; and if any refuse to stand, notwithstanding the Fine, or being elected and bound, dies before the end of the Year, then at the Quarter-Sessions of the County to be held in convenient time next after such death or refusal, and before the said prefixed day of Election, a new one of the Commonalty qualified, as aforesaid, shall be chosen by the said Justices at the Sessions, and by the other Warden and twelve Assistants, or major part of them present at the Sessions, to serve to the end of that Year, who at a convenient time to be then prefixed, shall become bound as aforesaid, under the pain above limited; and at the Election of new Wardens and Assistants, all other Officers concerning the said Bridge and their Stipends, shall be appointed by the said two elected

Forfeiture of Warden refusing to be bound, and how choice is to be made of another in such case.

elected Wardens; and the old Wardens shall every Year account, upon Oath, on *Thursday* in *Whitsun-Week*, in the presence of the new Wardens, or of one of them, and such four of the Assistants as are assigned to be Auditors in the House called *Crown-Inn* in *Rochester*, or at some other place appointed, and none of the Assistants or Auditors so assigned, to be absent at the Account, on pain of ten pounds; the Wardens and Assistants, or major-part of them, are to consent to, and subscribe to all Leases made of the Bridges Land, which Leases shall be made but of such effect as Tenant in Tail may do, by the Statute of 32 *H.* 8. *chap.* 8. save Leases of Houses not having three Acres of Land belonging to them, which may be made for fifty Years; and every seven Years shall be made a Terrer of the Lands leased; and Owners or Tenants of Lands contributary to the maintenance of the said Bridge, shall not be assessed to pay towards the maintainance thereof, but only when the Rents and Profits of the Lands belonging to the same be not sufficient; and then in such case the two Wardens and more part

Old Wardens every year to account upon Oath in the presence of the new Wardens.

Wardens and Assistants to consent to and subscribe Leases of the Bridges Lands, and for what Term.

When Owners or Tenants of contributary Lands may be Taxed. 18 El. cha 17. Stat. at large printed 1587. & 617. Keb. Stat. f. 863.

27 El. ch. 15. Stat. at large f. 722. Keb. Stat. f. 890.

part of the twelve Assistants shall Tax all the contributary Lands, Rating every Parish where those Lands be, proportionably at such Sums of Mony to be paid as by the said Wardens, *&c.* shall be appointed, in writing under their Hands and Seals, for which Mony any persons by them appointed may distrain, and sell the Distress, rendring the overplus, if any be, to the Owners of such Distress.

CHAP. XVIII.

An Account of the Statutes of the 39 *and* 43 Eliz. *made for repairing and maintaining the Bridge at* Wilton *upon* Wye, *in the County of* Hereford, *and* Edon *and* Prestberk *Bridges in* Cumberland.

39 El. chap. 24. Kel. Stat. f. 932. Bridges Rast. 2.

BY the Statute of the 39 *Eliz.* the Inhabitants of the County of *Hereford* were to build a Bridge at *Wilton* upon *Wye*, near the Town of *Ross*; and every laden Cart, Cart or Wayn driven over the said Bridge shall pay two pence, and every Horse loaden with a Pack one peny, and

What Pontage or Toll to be paid.

every

every ten Sheep, and under twenty, two pence; and every twenty Sheep three pence, and every five Beasts or above, and under twenty, two pence, and every twenty Beasts six pence, and so proportionably according to that Rate, to be taken as Pontage; and two Burgesses of the Town of *Ross*, and two Free-holders of the County of *Hereford* to be yearly chosen Collectors of the said Pontage, to whom, or to their Deputies it shall be lawful to distrain and impound any persons Sheep, Beasts, *&c.* refusing to pay the said Pontage: And the Collectors shall yearly pay to *Charles Bridges*, his Heirs or Assigns (upon whose Lands the Bridge was ordered to be built) ten pounds, at the Feast of St. *Michael*; and the said Collectors shall yearly make account of the Profits of the said Pontage; and a provision in the Act to discharge them and their Heirs that do yearly pay Corn to the Keepers of the passing there for their Pontage.

Four Collectors to be appointed.

Ten pounds *per Annum* to be paid to *Charles Bridges* and his Heirs.

Collectors to Account yearly

The County of *Cumberland* shall stand chargable for erecting, maintaining, repairing and new making of *Edon* Bridge, and *Prestberk* Bridge, standing over the River of *Edon*,

43 El. chap. 16. Bridges Rast. 9. Keb. Stat. 1, 957.

and as often as need shall require, and for the assessment, raising, collecting and imploying of such Works and Sums of Mony, from time to time as shall be needful for the Building and Repairing of these Bridges, and such forth and order shall be observed in all things, by and through the said County, as is appointed by the Statute 22 *H.* 8. *cap.* 5. ordained for the repair of Bridges: but the Inhabitants of the Lordship of *Milham* shall not be chargeable with any Contribution thereunto.

Assessment according to 22 H. 8. chap. 5.

Inhabitants of Milham not chargeable.

CHAP. XIX.

How Chepstow *Bridge standing between the Counties of* Glouceſter *and* Monmouth *is to be repaired and maintained.*

3 Jac. 1. chap. 23. Keb. Stat. f. 1119. Bridges Rast. 10.

THE Counties of *Glouceſter* and *Monmouth* shall for ever maintain and repair *Chepstow* Bridge over the River *Wye*, *viz.* the County of *Glouceſter* from the midst of the said Bridge for that part or moiety that lyeth on that side unto the Lordship

of *Tyddenham* and the County of *Monmouth*, from the midſt thereof for that part or moiety that lyeth on that ſide unto the Lordſhip of *Chepſtow*, any four of the Juſtices of Peace (one to be of the *Quorum*) reſpectively, in either of the ſaid Counties, to Tax all the Inhabitants of the ſaid Counties, as well within Liberties as without, at ſuch Sum as they think reaſonable and fit, and to make the Names and Sums of every particular perſon to be writ ſeverally in Rolls indented; and to appoint Collectors of every Hundred of either of the ſaid Counties, ſeverally within the limits of their Authorities; which Collectors receiving ſeveral parts of the ſaid Rolls under the Hands and Seals of the ſaid Juſtices, are by vertue thereof to collect and receive all the particular Sums of Mony therein contained, and to diſtrain upon ſuch as refuſe, and to ſell the Diſtreſs and retain and receive all the Mony Taxed, reſtoring the overplus, if any be, to the Owner; and the ſaid Juſtices are to appoint four Surveyors for the ſaid Bridge, two for each County, to whom the Collectors ſhall pay the Monies by them levied and Col-

Juſtices to Tax Inhabitants, appoint Collectors and Surveyors. Keb. Ibid f. 1028. ſect. 4.

Collectors to diſtrain for non-payment, and pay money to Surveyors, Keb. ubi ſupra.

lected, to be imployed for the repairing of the said Bridge, and shall make indented Rolls to be Subscribed interchangably between them and the Surveyors, mentioning the time and payment, and to make account when required, to the said Justices respectively, in either of the said Counties, wherein they are appointed Collectors or Surveyors, how the Mony is expended: And upon refusal to account or to pay without delay (for the uses aforesaid) such part thereof as shall be found in their Hands, to such person or persons as the said Justices respectively, in either of the said Counties at their Quarter-Sessions shall nominate and appoint, then the said Justices may make process against them and their Executors and Administrators, by Attachment or Capias under their Seals, retornable at their General Sessions of the Peace, and if they appear, to compel them to account and pay, and upon refusal to commit them to Prison, there to remain without Bail till they perform; and the said Justices of the said Counties respectively are to take care that one part of all the several Rolls, containing all Taxations

Collectors and Surveyors to account to the Justices. Keb. ubi supra.

Process to be made out against Surveyors and Collectors for not accounting or not paying. Keb. ibid. f. 1021. sect 4.

mations be kept amongst the Records of the Sessions, that it may always appear how much mony is Taxed, &c. and the Justices (after requeſt made by any two Inhabitants of the County where they are Justices) ſhall forfeit forty ſhillings a piece for every month-y negligence or default by them committed, in not taking order as the Act directs for reparation of the Bridge from time to time: All Forfeitures to be recovered in any of the Kings Courts of Record, by Action of Debt, Bill, Plaint or Information, and after recovery to be divided into four parts, one part to the uſe of the party that ſhall ſue, and the other three parts towards the repair of the Bridge.

Juſtices penalty for neglect. Keb. ubi ſupra, fol. 5.

Forfeitures, how to be recovered. Keb. ibid. f. 1022. ſect. 8.

CHAP. XX.

Cardiff, Newport, and Carlion Bridges in Wales, how to be repaired.

23 Eliz. chap. 11. Bridges Rast. 5. Statutes at large, Printed 1587.

THE County of *Glamorgan* in South-*Wales*, and the Towne of *Cardiff* therein, standing near to the River of *Taff*, shall joyntly proceed together to the Re-edifying of the Bridge there, *viz.* the County shall always beſtow five parts of the Charges, and the Town of *Cardiff* one part; and ſo for every five pounds payable by the County, the Town of *Cardiff* and Liberties ſhall be charged with twenty ſhillings; and from time to time, for the maintaining the ſaid Bridge, ſhall defray all ſuch Charges as ſhall be neceſſary in like proportion: and two Juſtices of the Peace (one of the *Quorum*) ſhall Aſſeſs the Places and Inhabitants within their ſeveral Juriſdictions, and appoint perſons to gather the ſame, who may diſtrain for the ſame, and ſell the Diſtreſs, according to the Statute 27 *H.* 8. *chap.* 5. and upon refuſal or oppoſition, impriſonment till they conform

Juſtices of Peace to Aſſeſs and appoint perſons to Collect and Levy. Keb. ubi ſupra.

nform to abide the Order of the ſtices.

The Inhabitants of the County of *Monmouth* ſhall ſtand chargeable for the making and repairing of *Newport* and *Carlion* Bridges over the River of *Uske*, as need ſhall require; and ſuch Order ſhall be obſerved for the aſſeſſment, gathering, and imploying of the Mony thereupon to be ſpent, as is appointed by the Statute of 22 *H.*8. *chap.* 5. But no Town Corporate ſhall be chargeable to be contributary thereunto, which is bound by any Law to make or repair any Bridge over any main River.

39 Eliz. chap. 23. Bridges, Raſt. 7. Keb. ibid. f. 933.

FINIS.